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Thursday
September 4, 1980

Highlights

CONTINUED INSIDE

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Highlights

Contents

Federal Register
Vol. 45, No. 173
Thursday, September 4, 1980

MEETINGS ANNOUNCED IN THIS ISSUE

CANCELLED MEETING

HEARINGS

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Federal Register
Vol. 45, No. 173
Thursday, September 4, 1980

Presidential Documents

Title 3—

The President

Executive Order 12233 of September 1, 1980

Amendments to the Manual for Courts-Martial, United States, 1969 (Revised Edition)

By the authority vested in me as President of the United States of America by Chapter 47 of Title 10 of the United States Code (the Uniform Code of Military Justice), and in order to make some clarifying and technical amendments to the Manual for Courts-Martial, United States, 1969 (Revised edition), prescribed by Executive Order No. 11476, as amended by Executive Order No. 11835, Executive Order No. 12018, and Executive Order No. 12198, it is hereby ordered that Executive Order No. 12198 is amended as follows:

1–101. Rule 506(j) in the Table of Contents to the Military Rules of Evidence is amended by deleting "claim or privilege" and substituting therefor "claim of privilege" in the first line.

1–102. Rule 302 of the Military Rules of Evidence is amended by changing paragraph (b)(2) to read as follows:

"An expert witness for the prosecution may testify as to the reasons for the expert's conclusions and the reasons therefor as to the mental state of the accused if expert testimony offered by the defense as to the mental condition of the accused has been received in evidence, but such testimony may not extend to statements of the accused except as provided in (1).".

1–103. Rule 304(b) of the Military Rules of Evidence is amended by deleting the reference "under rule 305(d)–(e)" and substituting therefor the reference "under rules 305(d), 305(e), and 305(g)".

1–104. Rule 305 of the Military Rules of Evidence is amended by changing the last sentence of paragraph (h)(2) to read as follows:

"An interrogation is not "participated in" by military personnel or their agents or by the officials or agents listed in subdivision (h)(1) merely because such a person was present at an interrogation conducted in a foreign nation by officials of a foreign government or their agents, or because such a person acted as an interpreter or took steps to mitigate damage to property or physical harm during the foreign interrogation.".

1–105. Rule 317(b) of the Military Rules of Evidence is amended by deleting at the end thereof "for purposes of enforcing the Uniform Code of Military Justice" and substituting therefor "for purposes of obtaining evidence concerning the offenses enumerated in section 2516(1) of title 18, United States Code, to the extent such offenses are punishable under the Uniform Code of Military Justice".

1–106. Rule 317(c) of the Military Rules of Evidence is amended to read as follows:

"(c) *Regulations.* Notwithstanding any other provision of these rules, members of the armed forces or their agents may not intercept wire or oral communications for law enforcement purposes unless such interception:

"(1) takes place in the United States and is authorized under subdivision (b);

"(2) takes place outside the United States and is authorized under regulations issued by the Secretary of Defense or the Secretary concerned; or

"(3) is authorized under regulations issued by the Secretary of Defense or the Secretary concerned and is not unlawful under section 2511 of title 18, United States Code.".

1–107. Rule 321(b)(2)(B) of the Military Rules of Evidence is amended by deleting the reference "(1)" and substituting therefor the reference "(A)".

1–108. Rule 403 of the Military Rules of Evidence is amended by correcting "exluded" to read "excluded" in the first clause of that rule.

1–109. Rule 408 of the Military Rules of Evidence is amended by correcting "purposes" to read "purpose" in the last sentence of that rule.

1–110. Rule 506(f) of the Military Rules of Evidence is amended by deleting "classified information" and substituting therefor "government information" in the last sentence of that rule.

1–111. Rule 507(a) of the Military Rules of Evidence is amended by deleting "information resulting in an investigation" and substituting therefor "information relating to or assisting in an investigation" in the second sentence of that rule.

1–112. Rule 1101(b) of the Military Rules of Evidence is amended by deleting the reference "Section V" and substituting therefor the reference "Sections III and V".

1–113. Section 12 of Part B, which provided for amendments to paragraph 127*c*(1) of Chapter XXV of the Manual, is amended by adding thereto the following:

"Paragraph 127*c*(1) is also amended by deleting "or the Code of the District of Columbia, whichever prescribed punishment is the lesser,". Further, paragraph 127*c*(1) is amended by deleting "or the Code of the District of Columbia and the respective Code" and substituting therefor "and the United States Code.".

Jimmy Carter

THE WHITE HOUSE,
September 1, 1980.

[FR Doc. 80-27404
Filed 9-3-80; 10:59 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 45, No. 173
Thursday, September 4, 1980

PRESIDENTIAL COMMISSION ON WORLD HUNGER

1 CFR Part 475

Privacy Act of 1974 Regulations

AGENCY: Presidential Commission on World Hunger.

ACTION: Final rule.

SUMMARY: The Presidential Commission on World Hunger has terminated by compliance with E. O. 12078, as amended, which created the Commission.

EFFECTIVE DATE: August 31, 1980.

FOR FURTHER INFORMATION CONTACT:
Daniel E. Shaughnessy, (202) 447-5095.

SUPPLEMENTARY INFORMATION:
Commission hereby removes Part 475 from 1 CFR.

Dated: August 29, 1980.

Daniel E. Shaughnessy,
Executive Director.

[FR Doc. 80-27005 Filed 9-3-80, 8:45 am]
BILLING CODE 6820-97-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 14

Determining the Primary Purpose of Certain Payments for Federal Tax Purposes

AGENCY: U.S. Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: This rule establishes criteria to be used in determining the primary purpose for which payments are made under certain Federal and non-Federal programs as authorized by section 543 of the Revenue Act of 1978 as amended. A determination that the primary purpose of a payment is to conserve soil or water resources, protect or restore the environment, improve forests, or provide wildlife habitat will allow recipients to exclude all or part of the payment from their gross income for Federal tax purposes provided that the payment does not increase substantially the annual income derived from the property benefited by the payment.

EFFECTIVE DATE: This rule is effective September 4, 1980. It applies to payments made after September 30, 1979.

FOR FURTHER INFORMATION CONTACT:
Arnold Miller, Office of Budget, Planning and Evaluation, Office of the Secretary, Room 117-A Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, phone (202) 447-3255. The final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Arnold Miller.

SUPPLEMENTARY INFORMATION: (1) *General.* This final action has been reviewed under USDA procedures established in Secretary' Memorandum 1955 to implement Executive Order 12044, and has been classified "significant."

Section 543 of the Revenue Act of 1978 (Pub. L. 95-600), hereafter referred to as the "Act" amended the Internal Revenue Code of 1954 to provide that certain payments, or portions thereof, received through Federal and non-Federal programs can be excluded from gross income for Federal income tax purposes. The exclusions apply to the extent that the Secretary of Agriculture determines that the payments, or portions thereof, are make primarily for the purposes of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing wildlife habitat, and to the extent that the Secretary of the Treasury determines that the payments do not increase substantially the annual income derived from the property associated with the payments.

A deduction, depreciation, amortization, or investment credit may not be claimed with respect to amounts excluded from gross income under Section 543 of the Act. If associated property or improvements are disposed of within 20 years after the payment is made, some or all of any capital gain may be treated as ordinary income for tax purposes. Section 543 applies to payments made after September 30, 1979, and is incorporated into the Internal Revenue Code of 1954 as Section 126 (exclusion) and as Section 1255 (recapture).

The Department of Agriculture is working with the Department of the Treasury to implement Section 543 of the Act. This rule, however, applies only to the determinations to be made by the Secretary of Agriculture as prescribed in Section 543.

(2) *Form of determinations.* The criteria and definitions set forth in this rule will be applied to applicable programs to determine the primary purpose for which payments are made. The determinations may be made on the basis of entire programs, categories of practices or measures within programs, or on the basis of individual payments. Determinations made under this rule will be published in the Federal Register.

(3) *Non-Federal payments.* In addition to Federal payments, payments received by persons under programs administered by units of non-Federal governments may qualify for exclusion from gross income under Section 543 of the Act. Non-Federal public entities that seek an exclusion from gross income for payments made under their programs should notify the Secretary of Agriculture following the procedure specified in § 14.6 of this rule. Those that have submitted materials in response to: (1) the May 24, 1979, letter sent to all governors on this subject; (2) the advance notice of proposed rulemaking that appeared in the June 29, 1979, Federal Register (44 FR 37953); or (3) the proposed rule that appeared in the August 22, 1979, Federal Register (44 FR 49271) need not resubmit materials in response to this rule.

(4) *Recent legislation.* The Technical Corrections Act of 1979 (Pub. L. 96-222) was signed by the President on April 1, 1980. The Technical Corrections Act makes certain technical and clerical changes to the provisions of the Revenue Act of 1978. Sections 105(a)(7) and 105(b)(1) of the Technical Corrections Act contain five changes that apply to the provisions of Section 543 and thus to this rule. Two of these changes are significant.

First, there are circumstances under which a taxpayer would have been worse off under the provisions of

Section 543 as it appeared unamended in Pub. L. 95-600 than under previous tax law. Generally, this would have occurred in those situations in which payments would have been received as reimbursement for costs for which a deduction or credit was allowed under prior tax law. Under previous tax law a taxpayer could have received the payment nearly tax-free, but under the unamended section 543 a taxpayer would have had to treat the payment as income if he or she were to dispose of the property associated with the payment within 20 years after receiving the payment.

The Technical Corrections Act addresses this problem. It permits a taxpayer to elect not to use the exclusion and recapture provisions of section 543 if the taxpayer would have received more favorable tax treatment under previously existing tax law. However, the Technical Corrections Act also guards against the realization of double benefits.

Second, under the 1978 Act it was not clear whether the unamended Section 543 could be applied to payments made under programs operated by non-Federal public entities other than States. The Technical Corrections Act makes it clear that Section 543 is intended to apply to payments received under any program of a State, a possession of the United States, a political subdivision of either of the foregoing, or the District of Columbia.

The amendments made by the Technical Corrections Act with respect to Section 543 apply to payments made after September 30, 1979, the effective date of the Revenue Act of 1978.

As stated in the proposed rule, this final rule incorporates the amendments to the Revenue Act of 1978 made by the Technical Corrections Act of 1979.

(5) *Public comment.* Comments on the proposed rule were received from State agencies, conservation organizations, and individuals. Four comments simply supported the rule as proposed. Several comments opposed the provisions of the Act. The remaining comments suggested changes or raised questions concerning the intent of the proposed rule. All comments were considered in developing the final rule. The full text of all comments is on file and available for public inspection in Room 117-A, Administration Building, USDA, 14th and Independence Avenue S.W., Washington, D.C. 20250.

The substance of the public comments and the Department's response to them follow:

(a) One comment suggested that the regulations should clarify whether payments made for more than one purpose or that yield multiple benefits are eligible for exclusion from gross income. The comment further indicated that water supply development should not be considered a component of water conservation but suggested that practices yielding incidental water supply benefits should not be excluded from eligibility purely on that basis.

Response. The rules have been modified to make it clear that applicable payments may be excluded from gross income to the extent that they are determined to be made primarily for one or a combination of the purposes listed in the rule and if they are also determined not to increase substantially the annual income derived from property associated with the payment.

The incidental benefits of practices installed with payments received under eligible programs are considered to be separate from the primary purpose of those payments. Incidental benefits, however, may affect the excludable portion of payments if they result in an increase in the annual income derived from property associated with the payments. Procedures for determining the portions of applicable payments that should be either excluded from or reported as gross income will be published by the Secretary of the Treasury.

(b) Ten comments suggested that the definition of State programs should be expanded to include substate political entities such as counties, special purpose districts, and interstate compact programs.

Response: As one of the alternatives to the proposed rule, we considered a definition of "State" that would have interpreted Section 543 as extending to payments received through programs of substate political entities. This definition is in accord with the recently enacted Technical Corrections Act, and has been incorporated into the final rule.

(c) One comment suggested that the language referring to "existing stands" of timber in § 14.5(e)(2) limits the situations under which payments for improving forests would be eligible for exclusion from gross income.

Response: The limitation was not intended. The reference to "existing stands" has been deleted from the rule.

(d) One comment suggested that the rule require States to report payments made to individuals to the Internal Revenue Service (IRS).

Response: IRS, not USDA, is authorized to promulgate rules concerning income reporting. This comment has been brought to their attention.

(e) One comment cautioned against extending the definition of wildlife habitat to favor conditions under which wildlife resources are expropriated for private use to the exclusion of their beneficial use by the general public. Moreover, limiting the definition of wildlife habitat to that of threatened or endangered species would tend to reduce the effectiveness of incentive payments intended to encourage private action to enhance wildlife resources for general public benefit.

Response: The definition of wildlife habitat in the final rule does not include habitat provided for species husbanded or otherwise cultivated for profit. It includes the establishment of physical and biological conditions that can reasonably be expected to support noncultivated and nondomesticated forms of animal and plant life of value to the public apart from the value that is captured as private economic gain. The definition includes, but is not limited to, the habitat of endangered or threatened species.

(f) One comment suggested that conservation cost-share payments should not be considered as income and thus should not be taxed.

Response: The Internal Revenue Code and previous tax rulings indicate that, in general, conservation cost-sharing payments should be included in gross income. The intent of Section 543 of the Revenue Act of 1978 is to allow cost-share payments to be excluded from gross income for tax purposes to the extent that they yield benefits to the public apart from those that accrue to the recipients of the payments. This rule provides a basis for carrying out the Secretary of Agriculture's responsibilities under that Act.

(g) Two comments questioned why the Secretary of the Treasury has to make a separate determination that payments do not increase substantially the income even though the Secretary of Agriculture has determined that the payments are made for one or more of the purposes listed in the Act. Another comment suggested that the primary purpose of soil and water conservation practices is to protect land from deterioration for public benefit. Therefore, increases in land values or productivity are incidental and should not be taxed.

Response: These comments go to the Act itself. The Act specifies that all or part of a payment can be excluded from gross income (1) if the Secretary of Agriculture determines that it is made primarily for conserving soil and water resources, protecting or restoring the environment, improving forests, or providing wildlife habitat and (2) if the Secretary of the Treasury determines that the payment does not increase

substantially the annual income derived from the property.

(h) Once comment expressed concern that the provision of the Act that calls for a determination that payments do not increase substantially annual income may work against small farmers. Because small farmers tend to have small farm incomes, and increase in income may be significant to them but insignificant to a farmer with a larger operation.

Response: Because the Act states that the Secretary of the Treasury is to determine whether payments increase substantially annual income, this comment has been referred to the Treasury Department. The Department will work with Treasury to help make sure that the implementation of Section 543 does not work against small farmers.

(i) One comment recommended redefining forestry improvement to include all aspects of timber production.

Response: The definition of forestry improvement has been expanded to include actions, measures, or practices undertaken for the direct or indirect conservation or enhancement of timber resources. However, not all aspects of timber production, as for example harvesting, are considered bo be consistent with the Act. Consequently, the definition has been tailored to include only those silvicultural actions associated with establishing, maintaining, and enhancing timber resources.

(j) One comment questioned whether the definition of environmental protection should be broad enough to include payments made to correct natural conditions that aggravate man-caused or man-induced reductions or degradations in the external or extrinsic conditions directly or indirectly affecting people.

Response: The definition of environmental protection and restoration is intended to encompass all activities necessary to correct man-caused or man-induced problems in the natural environment. This includes actions to overcome natural conditions that aggravate man-caused or man-induced degradations as necessary to reestablish the natural conditions that existed before the man-caused degradations.

(k) One comment questioned whether public payments made for animal waste pollution abatement measures would be considered eligible for exclusion from gross income under the Act.

Response: A determination of the eligibility of payments for animal waste control measures for exclusion from gross income would be premature without first reviewing the circumstances under which the payments are made. The payments, however, will qualify for exclusion to the extent that they are determined to be made for one of the purposes listed in the Act and as not increasing substantially the annual income derived from the property.

Title 7, Subtitle A of the Code of Federal Regulations, is amended by adding Part 14 to read as follows:

PART 14—DETERMINING THE PRIMARY PURPOSE OF CERTAIN PAYMENTS FOR FEDERAL TAX PURPOSES

Sec.
14.1 Purpose.
14.2 Applicability.
14.3 Objective.
14.4 Policy.
14.5 Procedure.
14.6 Criteria for determining the primary purpose of payments with respect to potential exclusion from gross income.
14.7 Non-Federal programs and payments.

Authority: Sec. 543, Pub. L. 95-600; as amended by Sec. 105, Pub. L. 96-222; and 5 U.S.C. 301.

§ 14.1 Purpose.

(a) Part 14 sets forth criteria to be used by the Secretary of Agriculture in determining the primary purpose of certain payments received by persons under applicable programs. Determining the primary purpose for which applicable payments are made is one step toward the exclusion of all or part of the payments from gross income for Federal income tax purposes.

(b) The criteria set forth in Part 14 apply only to the determinations to be made by the Secretary of Agriculture.

§ 14.2 Applicability.

(a) Part 14 applies only to payments received under the programs listed in paragraphs (1) through (10). Payments received under programs not listed in paragraphs (1) through (10) are not considered eligible for exclusion from gross income under this part.

(1) The rural clean water program authorized by Section 208(j) of the Federal Water Pollution Control Act (33 U.S.C. 1288(j)).

(2) The rural abandoned mine program authorized by Section 406 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236).

(3) The water bank program authorized by the Water Bank Act (16 U.S.C. 1301 *et seq.*).

(4) The emergency conservation measures program authorized by Title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 *et seq.*).

(5) The agricultural conservation program authorized by the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a).

(6) The Great Plains conservation program authorized by Section 16 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b)).

(7) The resource conservation and development program authorized by the Bankhead-Jones Farm Tenant Act and by the Soil Conservation and Domestic Allotment Act (7 U.S.C. 1010; 16 U.S.C. 590a *et seq.*).

(8) The forestry incentives program authorized by Section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103).

(9) Any small watershed program administered by the Secretary of Agriculture that is determined by the Secretary of the Treasury or his delegate to be substantially similar to the type of programs described in paragraphs (1) through (8).

(10) Any program of a State, a possession of the United States, a political subdivision of a State or a possession of the United States, the District of Columbia, or a combination of any of the foregoing under which payments are made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife.

(b) The criteria set forth in § 14.5 for determining the primary purpose of payments with respect to their eligibility for exclusion from gross income shall also be used to determine the applicability of this part to payments received under non-Federal programs as provided in § 14.2(a)(10).

§ 14.3 Objective.

The objective of the determinations made under Part 14 is to provide maximum conservation, environmental, forestry improvement, and wildlife benefits to the general public from the operation of applicable programs.

§ 14.4. Policy.

Federal tax, conservation, natural resource, and environmental policies should complement rather than conflict with one another. Therefore, the Federal income tax liability on applicable payments should be reduced or eliminated to the extent that the payments yield conservation, environmental, forestry improvement, or wildlife benefits to the general public beyond the benefits that accrue to those who receive the payments.

§ 14.5. Procedure.

(a) The portion of an applicable payment that may be excluded from gross income under Part 14 shall be that portion or all, as appropriate, that—

(1) Is determined to be made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing wildlife habitat; and

(2) Is determined by the Secretary of the Treasury as not increasing substantially the annual income derived from the property associated with the payment.

(b) *Primary purpose* means the principal, fundamental, predominant, or independent objective for which a payment is made. The following shall be considered in determining the primary purpose of a payment:

(1) *Single-purpose* payments shall be considered as having that purpose as their primary purpose.

(2) *Multiple-Purpose Payments.* If a payment is made for several purposes, it may be considered as having soil and water conservation, environmental protection or restoration, forestry improvement, or providing wildlife habitat as its primary purpose to the extent of the portion of the payment that is made for one or more of such purposes.

(3) Where a purpose of a payment, or portion thereof, is in doubt, the following sources should be considered—

(i) Authorizing legislation, legislative history, administrative regulation, administrative history, interpretive case law, and the administrative policies and procedures under which the applicable program operates and the payment is made; and

(ii) Agreements or other documentation accompanying the transfer of the payment;

(iii) Use made of the payment by the recipient.

§ 14.6 Criteria for determining the primary purpose of payments with respect to potential exclusion from gross income.

(a) *Soil conservation.* (1) Payments shall be considered to be made primarily for the purpose of soil conservation if they are intended to finance activities, measures, or practices to reduce soil deterioration.

(2) Soil deterioration refers to impairments of the physical or chemical properties of soil that are largely irreversible and that can be expected to result in a long-term or permanent reduction in the productive capacity of the resource regardless of the level of technology available or applied. Erosion by water and wind and the associated changes that result in permanent or long-term reductions in the productive capacity of the soil are forms of soil deterioration.

(b) *Water conservation.* (1) Water conservation includes actions that, for a given level of water supply, reduce the demand for or use of water by—

(i) Improving efficiency in use;

(ii) Reducing loss and waste;

(iii) Increasing the recycling or reuse of water, thereby making existing supplies available for other current or future uses; or

(iv) Improving land management practices for the purpose of reducing water use, loss, waste, increasing the efficiency of water use, or increasing the recycling or reuse of water.

(2) Payments shall be considered to be made primarily for the purpose of water conservation if they are intended to finance actions, measures, or practices that can be expected to result in water conservation as defined in paragraph b(1) of this Section.

(c) *Protecting the environment.* (1) Payments shall be considered to be made primarily for the purpose of protecting the environment if they are intended to finance actions, measures, or practices undertaken to prevent man-caused or man-induced reductions or degradations in the quantity or quality of the natural external or extrinsic conditions directly or indirectly affecting people.

(2) External or extrinsic conditions refer to the complex of natural conditions or circumstances, including but not limited to those affecting public health and safety, in which people reside or otherwise carry out their lives.

(d) *Restoring the environment.* (1) Payments shall be considered to be made primarily for the purpose of restoring the environment if they are intended to finance actions, measures, or practices undertaken to reestablish, return, or enhance the quantity or quality of the natural external or extrinsic conditions directly or indirectly affecting people that existed before the man-caused or man-induced degradation.

(2) External or extrinsic conditions have the same meaning with respect to restoring the environment as they do for protecting the environment.

(e) *Improving forests.* (1) Payments shall be considered to be made primarily for the purpose of improving forests if they are intended to finance actions, measures, or practices undertaken for the direct or indirect conservation or enhancement of the quantity or quality of timber resources.

(2) Improving forests includes the generation and regeneration of timber stands as well as the silvicultural improvement of such timber stands but excludes harvest cuttings not undertaken primarily for silvicultural improvement.

(f) *Providing habitat for wildlife.* (1) Payments shall be considered to be made primarily for the purpose of providing habitat for wildlife if they are intended to finance actions, measures, or practices leading directly to the establishment of those physical and biological conditions or resources that can be expected to support primarily noncultivated and nondomesticated animal and plant life. The animal and plant life must be of value to the public in their natural state apart from any value that may be realized from them as private economic gain.

(2) Wildlife includes but is not limited to species of terrestrial or aquatic animals and plants.

(3) Habitat includes, but is not limited to, the food supply, water supply, and nesting and escape cover necessary to support populations of wildlife species. Included in the definition of wildlife habitat are domestic crops raised for the primary purpose of providing food supply or cover for specific wildlife species.

§ 14.7 Non-Federal programs and payments.

(a) *Definition of non-Federal programs.* Non-Federal program means any program of a State, a possession of the United States, a political subdivision of any State or possession of the United States, the District of Columbia, or a combination of any of the foregoing.

(b) *Applicability.* Payments received through non-federal programs under which payments are made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife may be considered for exclusion from gross income under Part 14.

(c) *Determining the primary purpose of non-federal payments.* The determination of the primary purpose for which non-Federal payments are made with respect to their potential for exclusion from gross income shall be made by using the criteria set forth in Part 14 for determining the primary purpose of Federal payments.

(d) *Procedure for determining the primary purpose of payments made under non-Federal programs.* (1) To initiate the process of determining the applicability of this part to payments received through non-Federal programs and the primary purpose of the payments for potential exclusion from gross income, the non-Federal official

responsible for the program through which the payments are made should provide six copies of the following materials relating to the program to the Secretary of Agriculture—

(i) Authorizing legislation;

(ii) Rules or regulations;

(iii) Current policies and procedures under which payments are made and used;

(iv) A description of all practices or measures for which payments are made and used; and

(v) Any other information that may be helpful in determining the purpose for which payments, or portions thereof, are made and used.

(2) Any changes in the supporting documentation listed in paragraphs (d)(1)(i) through (d)(1)(iv) should be reported to the Secretary within 30 days of the date they become final.

Signed at Washington, D.C., August 27, 1980.

Bob Bergland,

Secretary.

[FR Doc. 80-27073 Filed 9-3-80; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 662; Valencia Orange Reg. 661, Amdt. 1]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period September 5–September 11, 1980, and increases the quantity of such oranges that may be so shipped during the period August 29–September 4, 1980. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective September 5, 1980, and the amendment is effective for the period August 29–September 4, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on January 22, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–477–5975.

The committee met again publicly on September 2, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges continues to be good.

It is further found that there is insufficient time between the date when information became available upon which this regulation and amendment are based and when the actions must be taken to warrent a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), and the amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

Section 908.962 is added as follows:

§ 908.962 Valencia Orange Regulation 662.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period September 5, 1980, through September 11, 1980, are established as follows:

(1) District 1: 374,000 cartons;

(2) District 2: 476,000 cartons;

(3) District 3: Open Movement.

(b) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" mean the same as defined in the marketing order.

§ 908.961 [Amended]

2. Paragraph (a) in § 908.961 Valencia Orange Regulation 661 (45 F.R. 57363), is hereby amended to read:

(a) * * *

(1) District 1: 418,000 cartons;

(2) District 2: 532,000 cartons;

(3) District 3: Open Movement.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: September 3, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-27423 Filed 9-3-80; 12:23 pm]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1464

1980 Crop Grade Loan Rates—Burley Tobacco

AGENCY: Commodity Credit Corporation.

ACTION: Final rule.

SUMMARY: This rule sets forth the schedule of loan rates applicable to the various grades of 1980-crop burley tobacco so as to provide the level of support required by the Agricultural Act of 1949, as amended. Eligible burley tobacco can be delivered for price support at the specified rates.

EFFECTIVE DATE: September 4, 1980.

ADDRESS: U.S. Department of Agriculture, Price Support and Loan Division, ASCS, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Betty A. Lucas, ASCS, (202) 447–6733. The Final Impact Statement considered in developing this final rule is available on request from Robert L. Tarczy, Price Support and Loan Division (ASCS), Room 3754-South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–6733.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant."

In compliance with Secretary's Memorandum No. 1955 and "Improving USDA Regulations" (43 FR 50988), initiation of review of these regulations contained in CFR 1464.21 for need, currency, clarity, and effectiveness is planned for the period May–July 1984.

The title and number of the Federal Assistance Program that the Final Rule applies to is: Title—Commodity Loans and Purchases; Number—10.051. This action will not have a significant impact

on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local government are informed of this action.

On April 25, notice was published in the Federal Register (45 FR 27944) inviting written comments, not later than May 27, on the proposed national average loan level for 1980 burley tobacco.

Section 106 of the Agricultural Act of 1949, as amended, prescribes a formula for computing, in cents per pound, the level of price support for each crop of tobacco for which marketing quotas are in effect or have not been disapproved by producers. Application of this formula requires that the 1980 crop of burley tobacco be supported at the level of 145.9 cents per pound.

Price support will be provided through loans to producer associations which will receive eligible tobacco from the producers and make price support advances to the producers for the tobacco received. The price support advances will be based on the grade loan rates, which will average the required level of support when weighted by estimated grade percentages, in accordance with Section 403 of the Act. The price support advances for burley tobacco will be the amounts determined by multiplying the pounds of each grade received by the respective grade loan rate less 1 cent per pound which the associations are authorized to deduct and to apply against overhead costs.

Discussion of Comments

A total of three comments were received with respect to the burley tobacco program. Two recommended that the program be adopted as proposed, and one stated that the increase in support of 9.4 percent is unacceptably low.

Final Rule

Accordingly, 7 CFR Part 1464 is amended by revising § 1464.21 to read as set forth below, effective for the 1980 crop of burley tobacco. The material previously appearing under § 1464.21 remains applicable to the crop to which it refers.

§ 1464.21 1980 Crop Burley Tobacco, Type 31, loan schedule.

[Dollars per 100 lb, farm sales weight]

Grade	Loan rate[1]
B1F	163
B2F	161
B3F	159
B4F	156
B5F	152
B1FR	162
B2FR	160
B3FR	158
B4FR	155
B5FR	151
B1R	159
B2R	157
B3R	155
B4R	152
B5R	146
B4D	133
B5D	128
B3K	145
B4K	143
B5K	137
B3M	153
B4M	144
B5M	135
B3VF	152
B4VF	144
B5VF	141
B3VR	147
B4VR	140
B5VR	134
B3GF	136
B4GF	134
B5GF	130
M1F	133
M2F	132
M3F	131
M4F	129
M5F	127
B3GR	133
B4GR	131
B5GR	127
T3F	152
T4F	146
T5F	138
T3FR	152
T4FR	146
T5FR	136
T3R	144
T4R	140
T5R	134
T4D	127
T5D	123
T4K	128
T5K	122
T4VF	134
T5VF	126
T4VR	128
T5VR	123
T4GF	123
T5GF	117
T4GR	123
T5GR	118
C1L	163
C2L	161
C3L	159
C4L	156
C5L	152
M3FR	129
M4FR	127
M5FR	123
N1L	117
N2L	110
C1F	163
C2F	161
C3F	159
C4F	156
C5F	152
C3K	142
C4K	136
C5K	130
C3M	154
C4M	152
C5M	141
C3V	146
C4V	141
C5V	135
C4G	130
C5G	122
X1L	162
X2L	160
X3L	158
X4L	153
X5L	148
X1F	162
X2F	160
X3F	158
X4F	153
X5F	147
X4M	142
X5M	132
X4G	126
X5G	120
N1F	114
N1R	113
N2R	107
N1G	104
N2G	90

[1] The loan rates listed are applicable to burley tobacco which is tied in hands or packed in bales and which is eligible tobacco as defined by the regulations. Only the original producer is eligible to receive advances. Tobacco graded "U" (unsound), "W" (wet), "No-G" (no-grade), or scrap will not be accepted. Cooperatives are authorized to deduct $1 per hundred pounds to apply against overhead costs.

(Secs. 4, 5, 62 Stat. 1020, as amended, (15 U.S.C. 714b, 714c), secs. 101, 106, 401, 403, 63 Stat. 1051, as amended, (7 U.S.C. 1441, 1425, 1421, 1423).)

Signed at Washington, D.C. on August 20, 1980.

John W. Goodwin,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80-26897 Filed 9-3-80; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of Republic Airlines, Inc.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This is an amendment to the regulations of the Immigration and Naturalization Service to add a carrier to the list of transportation lines which have entered into agreement with the Commissioner of Immigration and Naturalization to guarantee the preinspection of their passengers and crews at places outside the United States. This amendment is necessary because transportation lines which have signed such agreements are published in the Service's regulations.

EFFECTIVE DATE: August 6, 1980.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, D.C. 20536. Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.4 is published pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93-502 (88 Stat.

1561) and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b) and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment contained in this order adds a transportation line to the listing and is editorial in nature.

The Commissioner of the Immigration and Naturalization Service entered into an agreement with the following named carrier on the date indicated to guarantee the preinspection of its passengers and crew at a place outside of the United States under section 238(b) of the Immigration and Nationality Act and 8 CFR Part 238:

Republic Airlines, Inc. Effective date: August 6, 1980.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.4 [Amended]

§ 238.4 *Preinspection outside the United States,* the listing of transportation lines preinspected at Montreal is amended by adding in alphabetical sequence "Republic Airlines, Inc.".

(Secs. 103, 238(d); (8 U.S.C. 1103, 1228(b)))

Dated: August 28, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80-27106 Filed 9-3-80; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-79-48]

Crude Oil Reseller Regulations

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Technical amendment.

SUBJECT: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing a technical amendment to the final rule issued by the ERA on July 29, 1980, which established a permissible average markup of twenty cents per barrel for crude oil resellers first doing business on or after December 1, 1977 ("post-November 1977 resellers"). Today's amendment will correct both the regulatory language of the self-correcting refund provisions set forth in the July 1980 final rule and the inadvertent omission from the final rule of the provisions of § 212.185(c) pertaining to the recertification of incorrectly certified crude oil.

EFFECTIVE DATE: September 1, 1980.

FOR FURTHER INFORMATION CONTACT:
Cynthia Ford (Office of Public Hearings Management), Economic Regulatory Administration, Room B-210, 2000 M Street, NW, Washington, D.C. 20461, (202) 653-3971.
William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-4055.
Daniel J. Thomas (Office of Regulatory Policy), Economic Regulatory Administration, Room 7302, 2000 M Street, NW, Washington, D.C. 20461, (202) 653-3202.
William Funk or Jack O. Kendall (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 252-6736 or 252-6739.

SUPPLEMENTARY INFORMATION: On July 29, 1980, we issued a final rule, to be effective September 1, 1980, establishing a twenty-cent permissible average markup for crude oil resellers that came into business after November 1977 (44 FR 52112, August 5, 1980). As part of that final rule we adopted a self-correcting refund mechanism, whereby resellers that had not had a permissible average markup since December 1977 would have a one-time opportunity to refund overcharges since that time and thereby cure any violations of our price regulations.

Due to a technical error, the regulatory language set forth in the July 1980 final rule failed to state correctly the new self-correcting refund provisions to be followed by post-November 1977 resellers. We are today adopting a corrective amendment to that final rule. Thus, when the self-correcting refund provisions become effective on September 1, 1980, they will provide, as explained in the preamble to the final rule, that if in any month between December 1977 and September 1980 (1) a post-November 1977 reseller's average markup exceeded the twenty-cent permissible average markup and (2) the prices charged by that reseller for each grade of lower tier, upper tier, and stripper well and other exempt crude oil exceeded the prices at which such crude oil was priced in transactions of the reseller's nearest comparable reseller in the month, the reseller must refund to each purchaser which bought crude oil from the reseller during a given month an amount determined by multiplying the number of barrels of crude oil bought by that purchaser in the given month by the amount by which the reseller's average markup for that month exceeded the twenty-cent permissible average markup.

Paragraph (c) of § 212. 185 (*"Improper certifications"*) was inadvertently omitted from the July 1980 final rule. In order to correct this error, we are amending the final rule to reflect the retention of paragraph (c), *"Improper certifications"*, and to renumber the new self-correcting refund mechanism for post-November 1977 resellers (which the final rule set forth as § 212.185(c)) as a new paragraph (d) to § 212.185.

(Emergency Petroleum Allocation Act of 1973, (15 U.S.C. 751 *et seq.*), Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, (15 U.S.C. 787 *et seq.*), Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, (42 U.S.C. 6201 *et seq.*), Pub. L. 94-163, as amended, Pub. L. 94-385, Pub. L. 95-70, Pub. L. 95-619, and Pub. L. 96-30; Department of Energy Organization Act, (42 U.S.C. 7101 *et seq.*), Pub. L. 95-91, Pub. L. 95-509, Pub. L. 95-619, Pub. L. 95-620, and Pub. L. 95-621; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, the ERA amends 10 CFR 212.185 as set forth below, effective September 1, 1980.

Issued in Washington, D.C., August 27, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

The amendment to 10 CFR 212.185 published in the Federal Register on August 5, 1980 is corrected to read as follows:

* * * * *

3. 10 CFR 212.185 is amended by the addition of a new paragraph (d) to read, effective September 1, 1980, as follows:

§ 212.185 Corrections for overcharges.

* * * * *

(a) *Overcharges in a month.* * * *
(b) *Successive overcharges.* * * *
(c) *Improper certifications.* * * *
(d) *Exception.* Notwithstanding the provisions of paragraphs (a) and (b) of this section, if in any month between December 1977 and September 1980, (1) the average markup of a reseller which did not sell crude oil prior to December 1, 1977 exceeds the reseller's twenty-cent permissible average markup and (2) the prices charged by the reseller for

each grade of lower tier, upper tier, and stripper well and other exempt crude oil exceeded the prices at which such crude oil was priced in transactions of the nearest comparable reseller in the month, the reseller must refund to each purchaser which purchased crude oil from the reseller during the month an amount determined in accordance with the following formula:

$R=(M_t-M_o)B_t$

Where,

t=the month of measurement;

R=the amount of the refund required;

M_t=the average markup for the month *t*;

M_o=the twenty-cent permissible average markup and;

B_t=the number of barrels of crude oil sold to each purchaser in the month *t*;

The refunds required by this section shall be made prior to or on November 30, 1980.

* * * * *

[FR Doc. 80-27110 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-NW-5-AD; Amdt. 39-3906]

Airworthiness Directives: Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Amendment adopts an Airworthiness Directive (AD) that requires operators of Boeing 747 series airplanes to modify the leading edge flap primary and alternate drive unit control circuits in accordance with Boeing 747 Service Bulletin No. 27-2204 dated April 25, 1980.

These modifications are necessary because certain electrical power shorts could cause inadvertent extension of the Group A or B leading edge flaps. On certain 747 airplanes, inadvertent retraction as well as extension of these devices could also occur. Inadvertent extension at high cruise speeds may be hazardous due to possible structural damage. Inadvertent retraction at low speeds could be hazardous due to reduced aerodynamic lift.

DATE: Effective date October 9, 1980. Compliance time as described in the body of this AD.

ADDRESS: The Boeing service bulletin specified in this directive may be obtained upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This document may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Mackal, Systems and Equipment Section, ANW-213, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2500.

SUPPLEMENTARY INFORMATION:

History

A boeing review of the failure analysis of the 747 leading edge flap drive system has disclosed that a single electrical fault could result in unscheduled operation of some of the leading edge flaps. To date, there have been no in-flight failures. A Notice of Proposed Rule Making (NPRM) was issued on March 31, 1980 (45 FR 20901), proposing a rule which would require all operators of 747 series airplanes to modify the leading edge flap primary and alternate drive unit control circuits in accordance with Boeing Service Bulletin No. 747-27-2204, dated April 25, 1980.

Public Participation and Discussion of Comments

All interested persons have been given an opportunity to participate in the making of this amendment, and due consideration has been given to all matters presented.

Twelve parties commented on the proposed rule. Seven commenters concurred with the proposed rule, but requested up to three years for accomplishment. In view of the lack of adverse service history, the FAA has determined to extend the compliance time from 12 months to 24 months following the effective date of this AD. This time period will not compromise safety, nor will it be unduly burdensome to operators of the affected airplanes.

Four commenters questioned the necessity for the proposed rule, in view of the absence of reports of inadvertent leading edge device operation. The position of the FAA is that the failure analysis which demonstrated the possibility of inadvertent leading edge device operation constitutes sufficient justification for corrective action.

One commenter requested that the rule be limited to those aircraft which are susceptible to the failure resulting in inadvertent retraction of the leading edge flaps (those aircraft modified in production by PRR-79527). This commenter felt that the aircraft structure could withstand inadvertent extension of the leading edge flaps through the normal cruise speed range. One additional commenter maintained that unscheduled operation of the leading edge flaps would not result in a controllability problem. The position of the FAA is that inadvertent flap retraction at low speeds could be hazardous due to reduced aerodynamic lift. With respect to the inadvertent extension possibility, the FAA has no data establishing structural and operating mechanisms strength margins for the leading edge flaps at high cruise speeds.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Boeing: Applies to all Model 747 series airplanes, unless already accomplished:

Within the next 24 months from the effective date of this AD, modify the leading edge flap systems in accordance with Boeing Service Bulletin No. 747-27-2204, dated April 25, 1980, or a later FAA-approved service bulletin, or in a manner approved by the Chief, Engineering and Manufacturing Branch, Northwest Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA, Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 3154(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

The incorporation by reference provisions in this document were approved by the Director of the Federal Register on June 19, 1967.

Issued in Seattle, Washington, on August 25, 1980.

Charles R. Foster,

Director, Northwest Region.

[FR Doc. 80-26834 Filed 9-3-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-SO-45; Amdt. No. 39-3903]

Airworthiness Directives; Piper Models PA-23 and PA-31 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing Airworthiness Directive (AD), applicable to Piper Model PA-23 and PA-31 series airplanes, which requires inspection of the fuel control valves, fuel valve control cables and cable wires. This amendment continues the inspections but adds a preflight fuel selector valve check and requires installation and periodic replacement of lubricated O-rings in the Scott fuel selector valve. These changes are necessary based on additional adverse service experience.

DATES: September 8, 1980. Compliance schedule as prescribed in body of AD.

ADDRESSES: The applicable service bulletins and service letters may be obtained from Piper Aircraft Corporation, 820 E. Bald Eagle Street, Lockhaven, Pennsylvania 17745.

A copy of the service information is also contained in the Rules Docket, Room 275, Engineering and Manufacturing Branch, FAA, Southern Region, 3400 Norman Berry Drive, East Point, Georgia 30344, and in the docket in the Office of Regional Counsel, FAA Eastern Region, Jamaica, New York.

FOR FURTHER INFORMATION CONTACT: Gil Carter, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763-7435, or Frank Covelli, Engineering and Manufacturing Branch, Eastern Region, Federal Building, JFK Airport, Jamaica, New York 11430, telephone (212) 995-2894.

SUPPLEMENTARY INFORMATION: This amendment supersedes Amendment 39-3102 (43 FR 6411, AD 77-26-02, Docket No. 77-EA-73) which currently requires inspection of the fuel control cable wires, fuel valves, and fuel valve control cables. After issuing Amendment 39-3102, the FAA has determined, based on service experience, that in addition to the required inspections, it is necessary to conduct a preflight fuel selector valve check, and to replace the fuel selector valve O-rings at 1,000 hour intervals. Therefore, the FAA is superseding Amendment 39-3102 by continuing the inspection requirements for the fuel control cable wire, fuel valves and fuel valve control cables, by requiring an interim preflight fuel selector valve check, and by requiring periodic replacement of the fuel selector valve lubricated O-rings on certain PA-23 and PA-31 series airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive (AD):

Piper Aircraft Corporation. Applies to all Models PA-23, PA-23-160, PA-23-235, PA-23-250, PA-E23-250, PA-31 PA-31-300, PA-31-325, PA-31-350, and PA-31P airplanes certificated in all categories.

Compliance is required as indicated unless already accomplished. To prevent possible engine power loss due to malfunction of the fuel valves or fuel valve cable assemblies, accomplish the following:

(a) On Models PA-23-235, PA-23-250, PA-E23-250, serial numbers 27-505 through 27-1999 and 27-2223 through 27-7306126; PA-31, PA-31-300 and PA-31-325, serial numbers 31-2 through 31-7300951; PA-31-350, serial numbers 31-5001 through 31-7305052; and PA-31P, serial numbers 31P-3 through 31P-7300147, equipped with Scott fuel selector valves, perform the following.

Note.—The requirements of paragraph (a) do not apply to those aircraft equipped with a Dukes valve.

(1) Prior to the next flight, and at intervals not to exceed 10 hours time in service until compliance with paragraph (c), check both right and left fuel selector valves for smooth and easy operation before starting engines. If either fuel selector valve exhibits binding, sticking or is otherwise difficult to operate, accomplish paragraph (c)(1) or (c)(2), as applicable, before further flight.

(b) On Models PA-23, PA-23-160; PA-23-235, PA-23-250, PA-E23-250, serial numbers 27-1 through 27-7954069; PA-31, PA-31-300, PA-31-325, serial numbers 31-2 through 31-7612065; and PA-31P, serial numbers 31P-1 through 31P-7730004, which have accumulated 300 or more hours in service, accomplish the following within 100 hours' time in service after the effective date of this AD unless already accomplished within the last 100 hours, and thereafter at intervals not to exceed 100 hours' time in service.

(1) Visually inspect, using 10x power magnification, all fuel valve control cable wires at each swivel fitting and at idler control arm and actuating lever connections. Inspect for cracks, sharp radius bends and kinks in the control wires. Refer to Piper Service Bulletin No. 507 for inspection locations. Replace any cable inner wire that exhibits an adverse condition as described above with a like serviceable part.

(2) In accordance with Piper Service Bulletin No. 507 and the appropriate Piper Service Manual, inspect all fuel valves and control cables through all detent positions by having someone operate the fuel controls in the cockpit while inspecting for the following:

(i) Rigging and adjustment.

(ii) Unrestricted motion of cable wires, swivel fitting and valve actuating levers.

(iii) Proper lubrication of fuel valve attachments and controls. Correct any unsatisfactory conditions in accordance with the appropriate aforementioned Piper Service documents.

(c) Within the next 100 hours time in service after the effective date of this AD, unless already accomplished within the last 900 hours, and thereafter at intervals not to exceed 1,000 hours time in service, accomplish the following:

Note.—The requirements of paragraph (c) do not apply to aircraft equipped with a Dukes valve.

(1) On Models PA-23-235, PA-23-250, PA-E23-250, serial numbers 27-505 through 27-1999 and 27-2223 through 27-7305126; PA-31, PA-31-300, PA-31-325, serial numbers 31-2 through 31-7300951; and PA-31-P, serial numbers 31P-3 through 31P-7300147, equipped with Scott fuel selector valves:

(i) Gain access to the fuel selector valves in accordance with the appropriate Maintenance Manual.

(ii) Visually inspect the cable wires at the fuel selector valve swivel fittings by having someone operate the fuel controls in the cockpit while inspecting the swivel fittings and control wires.

(iii) If any evidence exists of the cable binding, bending, or kinking, replace the cable and carefully check the system rigging in accordance with the appropriate Maintenance Manual.

(iv) Remove and disassemble the Scott fuel selector valves in accordance with the Maintenance Manual, under the section entitled "Fuel System."

(v) Remove the existing valve spool "O" rings and install new ones contained in Piper Kit No. 760-504.

(vi) Reassemble the fuel selector valves and inspect for leaks in accordance with the Maintenance Manual.

(vii) Install the fuel selector valves in the aircraft and inspect for proper rigging and tank selection. Lubricate the external parts at the selector valve sprocket and control cable swivel fittings with an appropriate grease as specified in the Maintenance Manual.

(viii) Inspect for fuel leaks from the fuel selector valves and fittings.

(ix) Prepare the airplane for return to service in accordance with the Maintenance Manual.

(x) Make an appropriate maintenance record entry.

(2) For Model PA-31-350, serial numbers 31-5001 through 31-7305052, equipped with Scott fuel selector valves:

(i) Remove the access plates located forward of the main spar on the underside of the wings, between the wing and the fuselage.

(ii) Remove and disassemble the Scott fuel selector valves in accordance with the Maintenance Manual, under the section entitled "Fuel System."

(iii) Remove the existing valve spool "O" rings and install new ones contained in Piper Kit No. 760-504.

(iv) Reassemble the fuel selector valves and inspect for leaks in accordance with the Maintenance Manual.

(v) Install the fuel selector valves in the aircraft and inspect for proper rigging and tank selection.

(vi) Inspect for fuel leaks from the fuel selector valves and fittings.

(vii) Install the access plates.

(viii) Make an appropriate maintenance record entry.

Upon submission of substantiating data, through an FAA Aviation Safety Inspector, the Chief, Engineering and Manufacturing Branch may adjust the inspection intervals.

An equivalent method of compliance may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region or Eastern Region.

The checks in paragraph (a) of this AD may be accomplished by the pilot as provided in FAR 43.3h and appropriate maintenance record entries made in accordance with FAR 91.173. Inspections and component replacements must be accomplished by a person authorized by FAR 43.3.

Note.—Piper Service Letter 580 and Service Bulletin Nos. 277, 507, and 648 pertain to this subject.

This supersedes Amendment 39-3102, 43 FR 6411, AD 77-26-02.

This amendment becomes effective September 8, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in East Point, Georgia, on August 20, 1980.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 80-26833 Filed 9-3-80; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 140

Delegation of Authority To Disclose Confidential Information

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commission is codifying the delegation to certain members of its staff of its authority to disclose to contract market officials the facts concerning any transaction or market operation, including the names of parties thereto, which disrupts or tends to disrupt any market or is otherwise harmful or against the best interests of producers or consumers.

EFFECTIVE DATE: October 15, 1980.

FOR FURTHER INFORMATION CONTACT: Joan L. Loizeaux, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone (202) 254-5543.

SUPPLEMENTARY INFORMATION: Under Section 8(a) of the Commodity Exchange Act, as amended ("Act"), the Commission generally may not publish information in its possession "* * * that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers * * *."[1] In enacting this provision, Congress sought to protect the legitimate interests of market participants, by according confidential treatment to information regarding their business activities.[2]

However, Congress has also determined that the general need for confidentiality is outweighed by the need for disclosure to the appropriate committee or officer of a contract market in certain circumstances. Section 8a(6) of the Act specifically authorizes the Commission:

"* * * to communicate to the proper committee or officer of any contract market, notwithstanding the provisions of section 8 of the Act, the full facts regarding any transaction or market operation, including the names of parties thereto, which in the judgment of the Commission disrupts or tends to disrupt any market or is otherwise harmful or against the best interests of producers and consumers * * *."[3]

Both the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry expressly recognized the importance of communication between Commission and contract markets under Section 8a(6) in their reports on the 1978 amendments to the Act.[4]

In a Federal Register notice published on April 10, 1979, the Commission proposed to codify its existing practices delegating authority to certain members of its staff to make disclosures under Section 8a(6) and to specify certain additional conditions under which disclosure could be made. 44 FR 21295. The Commission received five comments on the proposed rule.

The Commission had proposed that no contract market official would be permitted to receive information pursuant to Section 8a(6) unless that official had signed a statement that the official would not permit the information to be further disclosed, except to accomplish the purpose for which the information was furnished, or to be used for the official's own direct or indirect benefit. The Commission had proposed this requirement to emphasize the responsibility of contract market officials to guarantee the confidentiality of the information which they receive. The Commission also noted that Section 9(e) of the Act makes it a felony punishable by a fine of up to $100,000 or imprisonment for five years, or both, for any person to acquire from any Commissioner or from any Commission employee non-public information that may affect or tend to affect the price of any commodity or commodity future and use the information in any commodity future, cash or option transactions.[5]

Four commentators objected to the proposed signed statement requirement. The commentators generally suggested that the requirement was burdensome, indicated a lack of trust in exchange personnel, and in view of Section 9(e), was unnecessary. Two commentators proposed instead that the chief executive officer of each contract market submit a list of the names, addresses, and phone numbers of the officials who are authorized to make requests or receive information. One commentator also expressed concern that, if the information could be disclosed only for the "purpose" for which it was furnished, a related contract market surveillance program or investigation might be hampered.

The Commission believes that the proposed alternative will satisfactorily insure that confidential information will be provided only to the appropriate persons. Under the rule 140.72 as adopted, the chief executive officer will be required to provide the original list to the Secretary of the Commission and the appropriate Regional Coordinator by October 15, 1980. The chief executive officer will also be required to notify the Commission of additions or deletions from the list of officials authorized to receive confidential information. The

[1] Section 8(a) of the Commodity Exchange Act, as amended, Pub. L. 95-405, Sec. 16, 92 Stat. 873 (1978).

[2] See, e.g., 61 Cong. Rec. 1321 (1921) (remarks of Congressman Kincheloe).

[3] Section 8a(6), 7 U.S.C. 12a(6) (1976), as amended, Pub. L. 95-405, Sec. 17, 92 Stat. 874 (1978).

[4] H. R. Rep No. 95-1181, 95th Cong., 2d Sess. 18-19 (1978); S. Rep. No. 95-850, 95th Cong., 2d Sess. 29-30 (1978).

[5] Section 9(e) of the Act, 7 U.S.C. 13(e) (1976), as amended, Pub. L. 95-405, Sec. 19, 92 Stat. 875 (1978).

Commission is further of the view that neither Section 8a(6) or 9(e) of the Act would prevent a contract market official from disclosing confidential information to the official of another contract market in connection with their mutual self-regulatory responsibilities.

The Commission had also proposed that "contract market officials" authorized to receive information would include the chairman of the contract market's business conduct or control committee, or of any committee having similar responsibilities, any member of the committee designated by the chairman, the chief executive officer of the contract market, and any officer of the contract market who is specifically charged with the supervision of the general business conduct of the members of the contract market or of the contract market's audit and investigative staff. Two commentators objected that the Commission's proposed definition was too narrow. One commentator suggested that the definition be expanded to include "all Board Members and Officers of the Exchange and exchange counsel."

Section 8a(6) limits the Commission's ability to communicate confidential information "to the proper committee or officer of any contract market." The Commission sought in its proposed definition of "contract market official" to include all persons who might be expected to have a need for confidential information. However, the Commission recognizes a particular contract market may have various officials responsible for market surveillance activities. In order to permit contract markets maximum flexibility, therefore, the Commission has amended its proposal to provide that confidential information may be furnished to any contract market officer or committee member who is specifically charged with market surveillance or audit or investigative responsibilities and who is named on the list submitted by the contract market's chief executive officer.[6]

Two commentators objected to the proposed requirement that disclosure would not be made to a contract market official unless the delegated Commission employee determined that the contract market could not otherwise obtain the information without unreasonable delay. Commentators pointed out that such a requirement might impede the timely flow of information between the Commission and the contract market. The Commission concurs with these comments and has deleted this requirement.

One commentator noted that information that does not separately disclose business transactions or market positions of any person and trade secrets or names of customers may be disclosed under the Commodity Exchange Act without the Commission or its delegatee making the findings required by Section 8a(6). The Commission by its delegation is seeking only to insure a prompt exchange of confidential information with the contract markets. The Commission will continue to provide and solicit information which does not separately disclose information required to be kept confidential by Section 8 of the Act.

One commentator suggested that the Commission delete proposed rule 140.72(c) which provides that a Commission employee delegated Section 8a(6) authority may submit to the Commission the question of whether disclosure should be made. The commentator suggested that this was merely internal procedure and might tend to impede the release of information.

The Commission has determined to retain this paragraph. The members of the staff to whom the Commission has delegated this authority are highly expert and are competent to make the judgment whether confidential information should be disclosed. Indeed it is precisely because of their expertise, that these employees will also recognize those circumstances in which a Commission determination might be appropriate before confidential information may be released.

The Commission has determined expressly to delegate the authority to disclose confidential information to several additional staff employees to reflect recent reorganizations within the Commission.

In consideration of the foregoing, the Commission pursuant to its authority contained in Section 2(a)(11), 8a(5) and 8a(6) of the Commodity Exchange Act, 7 U.S.C. 4a(j), 12a(5), and 12a(6) (1976), as amended, Pub. L. 95-405, Sec. 17, 92 Stat. 874 (1978), hereby amends Part 140 of Chapter I of Title 17 of the Code of Federal Regulations by adopting a new § 140.72 to read as follows:

§ 140.72 Delegation of authority to disclose confidential information.

(a) Pursuant to the authority granted under Sections 2(a)(11), 8a(5), and 8a(6) of the Commodity Exchange Act, the Commodity Futures Trading Commission hereby delegates, until such time as the Commission orders otherwise, to the Executive Director, the Deputy Executive Director, the Special Assistant to the Executive Director, the Director of the Division of Trading and Markets, the Deputy Directors of the Division of Trading and Markets, the Chief Accountant, the Director of the Division of Economics and Education, the Deputy Directors of the Division of Economics and Education, the Director of the Market Surveillance Section, the Director of the Division of Enforcement, the Deputy Directors of the Division of Enforcement, each of the Regional Coordinators, and each of the Directors of the Market Surveillance Branches, the authority to disclose to a contract market official the full facts concerning any transaction or market operation, including the names of the parties thereto, which in the judgment of the Commission employee, disrupts or tends to disrupt any market or is otherwise harmful or against the best interests of producers and consumers. A Commission employee delegated authority under this section may exercise that authority on his or her own initiative or in response to a request by a contract market official.

(b) Disclosure under this section shall only be made to a contract market official who is named in a list filed by the chief executive officer of the contract market, which sets forth the contract market official's name, business address and telephone number. The chief executive officer shall thereafter notify the Commission of any deletions or additions to the list of contract market officials authorized to receive disclosure under this section. The original list and any supplemental list required by this paragraph shall be filed with the Secretary of the Commission, and a copy thereof shall also be filed with the Regional Coordinator for the region in which the contract market is located. The original list required by this paragraph shall be filed on or before October 15, 1980.

(c) Nothwithstanding the provisions of paragraph (a), in any case in which a Commission employee delegated authority under this section believes it appropriate, he or she may submit to the Commission for its consideration the question of whether disclosure of information should be made.

(d) For purposes of this section, the term "contract market official" shall mean any officer or member of a committee of a contract market who is specifically charged with market

[6] The Commission does not believe that counsel who is not a contract market officer or committee member is a "proper committee or officer" within the scope of Section 8a(6). The Commission will not object, however, if, when confidential information is transmitted to an appropriate contract market official, the attorney is present or subsequently receives the information in the performance of his or her duties.

surveillance or audit or investigative responsibilities and who is named on the list filed pursuant to paragraph (b) of this section or any supplement thereto.

(Secs. 2(a), 8a, 49 Stat. 1500, as amended, 88 Stat. 1392, 92 Stat. 874; 88 Stat. 1391 (7 U.S.C. 4a, 12a))

Issued in Washington, D.C., on August 27, 1980, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 80-27111 Filed 9-3-80; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 355

Fresh Cut Roses From Israel; Final Countervailing Duty Determination and Countervailing Duty Order

AGENCY: International Trade Administration, United States Department of Commerce.

ACTION: Final Countervailing Duty Determination and Countervailing Duty Order.

SUMMARY: The Department of Commerce has determined that the Government of Israel confers benefits upon the production or export of fresh cut roses which constitute bounties or grants within the meaning of the countervailing duty law. Future imports of this merchandise will be subject to the payment of countervailing duties. The table in section 355, Annex III of the Commerce Regulations is being amended.

EFFECTIVE DATE: September 4, 1980.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Import Administration Specialist, Office of Investigations, International Trade Administration, Department of Commerce, Washington, DC 20230 (202-377-3003).

SUPPLEMENTARY INFORMATION:

Procedural Background

On November 16, 1979, the Department of the Treasury received a petition in satisfactory form on behalf of domestic rose growers alleging that the Government of Israel confers certain benefits upon production or export of fresh cut roses which are bounties or grants (subsidies) within the meaning of section 303, Tariff Act of 1930, as amended [19 U.S.C. 1303] (the Act). Treasury did not initiate an investigation before January 2, 1980, when authority for administering the countervailing duty law was transferred from Treasury to the Department of Commerce. The Department of Commerce published a Notice of Initiation of Investigation in the Federal Register on February 1, 1980 (45 FR 7273).

The Department published a Notice of Postponement of Preliminary Determination in the Federal Register on March 14, 1980 (45 FR 16522), because this case was determined to be "extraordinarily complicated." On June 10, 1980, the Department published a notice of "Preliminary Countervailing Duty Determination" in the Federal Register (45 FR 39325). That determination stated that the rose industry received subsidies estimated to be 3.8 percent of the f.o.b. value of the merchandise.

Israel is not a "country under the Agreement" within the meaning of section 701(b) of the Act [19 U.S.C. 1671(b)]. Accordingly, section 303 of the Act applies to this investigation, and, because rose imports are dutiable, there will be no injury determination by the International Trade Commission.

Imports covered by this investigation are cut roses, fresh, provided for in item 192.1900, Tariff Schedules of the United States Annotated (TSUSA).

Nature of Israeli Cut Flower Industry

There are approximately 1,200 commercial flower growers. They are, for the most part, family enterprises working small plots of land. Growers in close proximity to one another often join together to form "moshavs", or grower cooperatives.

The growers produce primarily for export. Roses accounted for approximately 33.5 percent of total fresh cut flower exports by value and most roses were exported. Only those flowers which do not meet export standards and a small number of flowers grown in the summer for the local markets are sold domestically, and there are no verifiable figures for these sales. Accordingly, although we allocated benefits conferred under certain programs over total rose production for the purpose of the preliminary determination, we have concluded that benefits in this case should properly be allocated over exports only. In addition, various calculations in the preliminary determination were based on the assumption that roses accounted for 13.5 percent of total flower production. On verification, we discovered that this figure was based on acreage devoted to rose production and is not related to value.

The growers have formed an Ornamental Plants Production and Marketing Board (the Board) to aid in developing flower, bulb, and ornamental plant products, to oversee the marketing of flowers (both domestically and for export), and to support agricultural research, among other functions. The Board is a nonprofit organization funded by the growers with representation from both the government and the private sector.

The Board oversees the export of over 120 floral products, including roses. It collects the flowers from the growers and delivers them to central packing houses, where they are sorted and graded according to international standards. There are twelve packing houses, eight of which process roses. After the roses are sorted and packed, they are transported to an air freight facility at Ben Gurion International Airport owned by AGREXCO, Agricultural Export Company Limited. AGREXCO assumes responsibility for exporting flowers at the airport facility and for marketing the flowers abroad. Approximately 90% of all fresh cut rose exports are exported by AGREXCO.

AGREXCO exports all types of agricultural products. Fresh cut roses are, accordingly, only a part of its overall business. AGREXCO is a "mixed" company as defined by sections 1(a) and 58(a) of the Government Companies Law. Eight of the shares in AGREXCO are held by the Government of Israel; the remaining nine are held by various agricultural cooperatives and marketing boards (one of which is the Board).

AGREXCO and the packing houses operate in a manner similar to cooperatives, i.e., as agents for the growers. They deduct from gross sales receipts an amount for commissions, which covers operating expenses, and pass all other income on to the growers.

The agricultural and tax year for flower growers is October 1 through September 30. The actual production and exportation period for flowers runs from October through May. During the hot summer months the plants are cut back in order to prepare them for the production of blooms during the winter. Only a small number of growers produce blooms during the summer for local markets. The October 1978 through September 1979 growing year is the period investigated in this case.

Programs Investigated

The petitioner has alleged that fresh cut roses from Israel benefit from a variety of subsidies.

Where we received sufficient evidence to support the allegations, or discovered evidence of subsidies in the course of our investigation, we have included the programs involved within the scope of the investigation. However,

for certain programs which petitioner has claimed are subsidies, we have neither received, nor discovered ourselves, adequate evidence to support the allegations made. This has been the case, for example, with allegations concerning the provision of infrastructure services (e.g. water via aquaduct). Absent evidence of clearly special treatment to a particular enterprise or industry, which might make such services a domestic subsidy as defined in section 771(5)(B) of the Act, we consider these services to be a normal function of government and not a subsidy.

Programs Found to Be Subsidies

Of the programs investigated, we have determined that the following are subsidies within the meaning of the countervailing duty law.

1. Certain benefits conferred under the Law for the Encouragement of Capital Investment (ECIL).—The ECIL was enacted in 1959 and has been amended from time to time. The stated purpose of this law is to encourage capital investment through the use of various financial and fiscal incentives in order to promote economic development, improve the balance of payments, and aid in the absorption of immigrants. Various ECIL benefits at issue in this case are export subsidies under the Act (i.e. are designed to promote exports or are tied to export performance); others involve domestic subsidies, as defined in section 771 of the Act.

Individual industries or enterprises must apply for Government approval of their projects to become eligible for ECIL benefits. AGREXCO and five packing houses have been approved. Growers, however, have not been approved. Under the ECIL, AGREXCO was approved on December 21, 1971. The five packing houses were approved on the various dates: Azata on March 11, 1977; Maboim and Pirchei Haemek on April 4, 1978; Kochav on May 28, 1979; and Yael on November 1, 1979.

The following benefits are provided under the ECIL:

A. Five-year exemption from payment of ⅔ of the property tax on buildings for approved enterprises; and

B. Ten-year exemption from payment of ⅙ of the property tax on equipment used by an approved enterprise.

These two programs were repealed with the publication of Amendment 17 to the ECIL on August 1, 1978. However, AGREXCO and three packing houses approved prior to the repeal are still eligible to receive benefits under the programs. Both programs involve clearly preferential tax treatment available only to selected enterprises under a law expressly intended to stimulate investment in projects which promote the objectives of the law. Moreover, the eligibility of the packing houses was made contingent on export performance.

The actual value to AGREXCO and the packing houses of a reduction in property taxes on buildings depends, first, on whether they are liable for such taxes and, if they are, on the amount of the tax due according to the normal rate. Neither AGREXCO nor the packing houses paid property taxes on buildings for the 1978/79 tax year. There is a question of Israeli law, as yet unresolved, as to AGREXCO's liability. The packing houses appear to be clearly liable, but because their buildings have not yet been assessed, their tax liability can, at this time, only be estimated.

Pending resolution of the legal issues concerning AGREXCO's liability for property taxes on buildings, we have found a zero subsidy rate. When the question of tax liability is settled, we will, if necessary, adjust this rate.

We have estimated the benefit to the packing houses by taking the difference between the preferential rate under ECIL and the normal tax rate on buildings and applying that to the current value of their buildings (as determined from information developed during the investigation). We then allocated 33.5 percent (the proportion of total flower exports accounted for by roses) of this estimated tax savings over rose exports during the 1978/79 growing year. On this basis we have found a subsidy of 0.03 percent. When assessed values of the buildings become available, recalculation may be necessary.

Both the packing houses and AGREXCO benefit from the reduction in property taxes on equipment. This tax is computed on the basis of the actual cost of equipment, rather than its assessed value.

For AGREXCO, we calculated the tax saving by multiplying the difference between the ordinary rate and the preferential rate by the value of the equipment eligible for exemptions under ECIL, as shown on AGREXCO's tax return. Because this equipment is used for all of AGREXCO's exports at the Ben Gurion facility, we multiplied the amount of tax saving by 24 percent, the portion of AGREXCO's shipments through this facility attributable by value to roses.

For the packing houses, we calculated the savings to Azata according to figures contained in its tax return; the savings for the other two packing houses were based on equipment values provided by the Board. Of the total savings for packing houses, 33.5 percent (the proportion of total flower exports accounted for by roses) was allocated to roses. We allocated this percentage of the sum of tax savings on equipment for AGREXCO and the packing houses for the 78/79 year over rose exports for that growing year. This calculation resulted in an amount for the subsidy equal to .006 percent of the f.o.b. value of roses.

C. Cash payments related to the cost of the property of an approved enterprise;

D. Cash payments related to the price of machinery and equipment of an approved enterprise.

Payments under these programs are direct subsidies contingent upon export performance. Two of the packing houses received payments since 1977 which provided benefits during the investigatory period. In computing the amount of the subsidy, we have allocated the payments on an annual basis over the first half of the useful life (as represented by engineers and technical advisors to the Board) of the assets purchased. We then took 33.5 percent of the 1978/79 figure to account for that portion of total flower exports attributable to roses and divided this by 1978/79 rose exports. On this basis, we have found a subsidy of 0.09 percent of the f.o.b. value of rose exports.

For these programs and certain others discussed below, the methodology—allocation of the benefit on a straight line basis over half of the useful life of the assets—is the same as that used in the preliminary determination. This is the traditional method of allocation for a nonrecurring grant which confers an immediate competitive benefit. We have determined that such a benefit is conferred here because these cash payments enabled the recipients to purchase capital assets essential to the operation of the flower industry. In considering whether or not this method reasonably allocates the benefits received, we compared the results of allocation on a straight line basis over half the useful life of the assets purchased with calculations based on "sum of the years digits"—a standard accounting method for determining asset depreciation for tax purposes. The results were substantially similar for 1978/79.

E. Accelerated depreciation for machinery, equipment and buildings

F. Direct tax reduction and/or exemptions

Under the first program, machinery and equipment of enterprises eligible for ECIL benefits may be depreciated at a rate equal to 200 percent of the normal rate of depreciation under Israeli income tax rules, and buildings may be

depreciated at a rate equal to 400 percent of the normal depreciation rate. Under the second program, a maximum company tax rate is placed on the taxable income of approved enterprises.

As with other instances of preferential tax treatment, the benefit involved depends on the tax burden of the beneficiary in any given year. AGREXCO is eligible for both the accelerated depreciation and the tax reduction/exemptions. However, because of loss carry forward, AGREXCO paid no income taxes for the 1978/79 growing year. We have recalculated AGREXCO's tax liability discounting the effect of accelerated depreciation and still found no tax liability. Thus, while there was no benefit to AGREXCO from either program in 1978/79, the situation may change in subsequent years. Accordingly, we have determined that while AGREXCO's eligibility for these tax benefits is a subsidy, the amount of the subsidy is zero for the investigatory period.

Four of the packing houses were approved under ECIL prior to September 30, 1979, and thus were eligible for benefits under both programs. Only one, Azata, has filed a tax return for 1978/79. The return and attached documents show that Azata took accelerated depreciation on buildings both in order to determine depreciation charges to be passed on to the growers and for income tax purposes.

The benefit received by Azata was (1) the savings attributable to the lower tax rate (i.e. 40 percent preferential rate as opposed to 61 percent ordinary rate) and (2) the savings attributable to accelerated depreciation. To calculate the benefits to Azata of accelerated depreciation, we took the difference between the taxable profit computed using accelerated depreciation and the taxable profit which would result had Azata used ordinary depreciation. We then applied the ordinary tax rate of 61 percent to the difference. Azata also was able to apply a preferential tax rate, 40 percent, to its taxable profit. The benefit accruing to Azata under this program is equal to the difference in taxes which would be due under the two rates. We added the benefits under the two programs and multiplied that sum by 33.5 percent, the amount of flower exports accounted for by roses.

There are no tax returns available for the other three packing houses. It is impossible to determine how depreciation is handled by these enterprises without access to tax returns and supporting documents. In the absence of tax returns, we have assumed that the packing houses could benefit from accelerated depreciation. We have used the best information available, that supplied by the Board and the other packing houses, to determine the value of the assets. In calculating the benefit accruing to the three packing houses, we assumed that accelerated depreciation was taken on the entire range of the assets. We based our calculations on ordinary rates of 4.0 percent for buildings and 7.0 percent for equipment (since we have no breakdown of equipment, we used the percentage for general equipment as shown in Israeli tax tables). The benefit conferred through accelerated depreciation is the amount of income tax saved because of reduced taxable income resulting from the use of such accelerated depreciation. We calculated this amount by applying the normal industrial tax rate in Israel, 61 percent, to the estimated amount represented by the accelerated depreciation, which we assumed would be profit. We multiplied this result by 33.5 percent to account for that proportion of flower exports accounted for by roses. This figure, plus that calculated for Azata, equals that net benefit realized under these two programs. We allocated it over total rose exports, resulting in a net *ad valorem* benefit of 0.71 percent.

Without tax returns for three of the eligible packing houses, we cannot determine whether they would have any additional taxable income which might benefit from direct tax reduction/exemption. Azata's tax return indicates that its net benefit from this program is .0014 percent of the value of rose exports. The low figure for Azata, along with the statements from the packing houses that their objective is to break even, suggests that the benefit from direct tax reduction/exemption is insignificant to the three packing houses for which we have no tax returns. Based on this information, we determine that although the packing houses' eligibility for this program is a potential subsidy, the amount of the subsidy is zero for the investigatory period.

2. Cash Payments from the Export Promotion Financing Fund.—Under this program the government of Israel compensates exporters for export expenses, such as advertising, merchandising and public relations. These payments are direct export subsidies. We were unable to verify amounts paid on total exports of flowers. However, we have verified the sales promotion budget (supplied by the Israeli Ministry of Agriculture) for flower exports to the United States for 1978/79. We have calculated the *ad valorem* benefit of this program by multiplying the budget amount by 33.5 percent (the proportion of flower exports represented by roses) and dividing the result by the dollar value of rose exports to the United States. On this basis, we have found a subsidy of 0.67 percent of the f.o.b. value of the merchandise.

3. Government Funding of AGREXCO.—AGREXCO received a government development grant in 1969 for an export facility at Ben Gurion Airport. This grant involves government assumption of distribution costs for rose exports and therefore is a subsidy under U.S. countervailing duty law. However, the amount of the subsidy is insignificant (the net benefit is 0.0004 percent of the f.o.b. value of rose exports during 1978/79). To calculate the benefit, we amortized the grant on a straight line basis over 25 years (half of the life of the facility). We then allocated 24 percent of the result for the 1978/79 growing year (that portion of total AGREXCO exports attributable to roses) to rose exports.

4. Cash Payments to Growers for Greenhouses.—Growers of fresh cut flowers are entitled to receive direct cash payments to build greenhouses. Approximately 90 percent of a total of 1105 grants were actually disbursed between 1975 and 1979. These payments involve a clear assumption by the government of costs of production of roses and, accordingly, are a subsidy within the meaning of our countervailing duty law.

We calculated the amount of the benefit by taking 33.5 percent of the total payments and allocating the result on a straight line basis over 10 years (half of the useful life of the greenhouses, as stated by a Ministry of Agriculture engineer who specializes in the design and construction of greenhouses). We then allocated the benefit attributable to the 1978/1979 growing season over 1978/1979 rose exports. The amount of the subsidy is equal to 0.364 percent of the f.o.b. value of the merchandise.

5. Cash Payments to Packing Houses.—The packing houses receive cash payments from the Ministry of Agriculture for buildings and equipment. Through these payments the government assumes distribution costs for flower exports. Four packing houses received grants during the period of investigation. We allocated the payments on a straight line basis over twelve and one-half years (half the useful life of the assets purchased) and then took 33.5 percent of the benefit attributed to growing year 78/79 and allocated that over 78/79 rose exports. On this basis, we have found a subsidy in the amount of 0.15 percent of the f.o.b. value of the merchandise.

Programs Found Not in Effect or Not Used

1. Payment of grants equal to a percentage of export value added. According to the Israeli Government, this program was abolished in 1978.

2. Refund for governmental participation in marketing. These refunds were abolished in 1977, as shown in the October 28, 1977, minutes of the session of the Israeli Government.

3. Cash rebates to exporters for every dollar of export sales. These rebates were abolished in 1977, as shown in the October 28, 1977, minutes of the session of the Israeli Government.

4. Regional relocation programs. These programs are part of the ECIL, which is discussed above. Growers are not "approved enterprises" under ECIL and therefore are not eligible for such benefits.

5. Government backed minimum price program. We compared records of export prices for 78/79 to minimum export prices established by the Ministry of Agriculture and found the market prices to be higher than the support prices. Therefore, no benefit was conferred during the investigatory period.

6. Refund of a portion of export insurance premiums. AGREXCO self-insures its rose shipments.

Programs Found Not to be Subsidies

The following government programs affecting the cut flower industry are not subsidies within the meaning of the countervailing duty law;

1. Rebate of the Value Added tax and other indirect taxes incurred in producing roses—Non-excessive rebate of indirect taxes is not a subsidy. We examined applications for tax refunds which showed that the refunds did not exceed the taxes collected.

2. Government participation in research and development—Research and Development concerning flowers is conducted at Hebrew University of Jerusalem, Rehevot, and the Volcani Institute of Agricultural Research. Information available to the Department indicates that this research and development concerns a broad range of topics, from developing new strains of flowers to devising new shipping techniques. A main topic of research is energy conservation, a subject of universal applicability.

Furthermore, dissemination of the results of this research and development is not restricted to growers, packers and shippers in Israel, but is available to the general public. The results of the research are useful to growers abroad and, in fact, have been provided to members of Roses Inc., the petitioner in this investigation. In view of these facts, we have determined that this program is not a subsidy within the meaning of the countervailing duty law.

3. Government funded extension services—The Government of Israel, through the Ministry of Agriculture, provides extension services to the agricultural sector. These services consist of various programs designed to assist farmers in such areas as production economics, water and soil use, farm mechanization, plant protection and applied research. In addition, training courses are provided for new farmers. These services are available to all sectors of agriculture and are not directed exclusively to rose growers or any other sector of agriculture. Further, similar agricultural services are provided in many other countries and are considered a normal function of government. We determine that these extension services are not subsidies within the meaning of the countervailing duty law.

4. Government support of the Ornamental Plant Production and Marketing Board—The board is funded by growers with no budget contribution by the Government.

5. Preferential financing of working capital and of accounts receivable for AGREXCO—AGREXCO, acting as agent for growers, receives financing for working capital and export accounts. However, this financing is provided on terms that are efffectively non-preferential. These government-sponsored loans, though offered at low nominal rates, are linked to inflation rates. The average effective rate was higher than commercial rates for comparable loans.

Verification

We verified the information used in reaching this determination through examination of Government laws, documents and correspondence; corporate and bank books and records; tax returns; legal, accounting, and engineering opinions; meetings with Israeli Government, corporate and university officials; and consultation with United States Government officials of other agencies who are familiar with specific programs at issue in this case.

Determination

I hereby determine that the Government of Israel provides bounties or grants (subsidies) within the meaning of section 303 of the Tariff Act and that the aggregate net amount of these benefits equals 2.02 percent of the f.o.b. value of the exported merchandise.

Three programs, reduction in property taxes on buildings for AGREXCO, accelerated depreciation for AGREXCO and direct tax reduction or exemption for AGREXCO and three packing houses, are subsidies with a current value of zero percent.

The Department has afforded interested parties an opportunity to present oral views in accordance with § 355.35, Commerce Regulations (19 CFR 355.35, 45 FR 4946). A hearing was held on July 15, 1980. In addition, we received written views in accordance with § 355.34(a), Commerce Regulations (19 CFR 355.34(a), 45 FR 4946).

Customs officers are hereby directed to continue the suspension of liquidation ordered in the preliminary determination. They are further directed, pending the receipt of advice from the Secretary of Commerce, to assess within six (6) months after the date on which the Secretary receives satisfactory information on which the assessment may be based, but in no event later than 12 months after the end of the annual accounting period within which the merchandise is entered or withdrawn from warehouse for consumption, countervailing duties on entries of fresh cut roses from Israel on which liquidation has been suspended, equal to the amount of the net subsidy determined to exist.

Effective September 4, 1980 and until further notice, deposit of estimated countervailing duties shall be required at the time of entry, or withdrawal from warehouse, for consumption. The amount to be deposited is 2.02 percent of the f.o.b. value of the merchandise. Annex III Part 355 of the Department of Commerce Regulations (19 CFR Part 355) is amended by inserting an entry for Israel in the "country" column and the words "fresh cut roses" in the column headed "commodity", the Federal Register citation of this notice in the column headed "Treasury Decision" and the words "Net Subsidy Declared—Rate" in the column headed "Action".

This notice is published pursuant to sections 303 and 706 of the Act (19 U.S.C. 1303, 1671e), and § 355.36 of the Department of Commerce Regulations (19 CFR 355.36).

Robert E. Herzstein,

Under Secretary for International Trade.

August 28, 1980.

[FR Doc. 80-27156 Filed 9-3-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 53, and 301

[T.D. 7718]

Treatment of Certain Elderly Care Facilities

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the treatment of private foundations that maintain certain elderly care facilities. Changes to the applicable tax law were made by the Revenue Act of 1978. The regulations provide private foundations with the guidance needed to comply with that Act and affect private foundations that provide long-term care facilities for disabled persons, elderly persons, needy widows, and children.

DATES: The regulations are effective for taxable years beginning after December 31, 1969.

FOR FURTHER INFORMATION CONTACT: Charles Kerby of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:EE–2–79 (202–566–3422) (not a toll-free number).

SUPPLEMENTARY INFORMATION: On March 24, 1980, the Federal Register published proposed amendments to the Regulations on Foundation and Similar Excise Taxes (26 CFR Part 53) under section 4942(j)(6) of the Internal Revenue Code of 1954 (45 FR 18973). The amendments were proposed to conform existing regulations to section 522 of the Revenue Act of 1978 (92 Stat. 2885). In the same document, deletions were proposed to the Income Tax Regulations (26 CFR Part 1) and the Regulations on Procedure and Administration (26 CFR Part 301) to reflect the repeal of section 6050 of the Code by section 5 of the Act of December 29, 1979 (Pub. L. No. 96–167; 93 Stat. 1275). The only comment received from the public on the proposed regulations supported the issuance of the regulations in final form.

Drafting Information

The principal author of this regulation is Charles Kerby of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, the proposed amendments to the Regulations on Foundation and Similar Excise Taxes (26 CFR Part 53) under section 4942 (j)(6), and the proposed deletions to the Income Tax Regulations (26 CFR Part 1) and the Regulations on Procedure and Administration (26 CFR Part 53), as published in the Federal Register on March 24, 1980 (45 FR 18973), are adopted without change. The regulations are adopted under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

Jerome Kurtz,
Commissioner of Internal Revenue.
Approved: August 25, 1980.
Emil M. Sunley,
Acting Assistant Secretary of the Treasury.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

§ 1.6050–1 [Deleted]

Par. 1. Section 1.6050–1 is deleted.

PART 53—FOUNDATION EXCISE TAXES

Par. 2. Section 53.4942(b)–(1) is revised to read as follows:

§ 53.4942(b)–1 Operating foundations.

(a) *Operating foundation defined*—(1) *In general.* For purposes of section 4942 and the regulations thereunder, the term "operating foundation" means any private foundation which makes qualifying distributions (within the meaning of § 53.4942(a)–3(a)(2)) directly for the active conduct of activities constituting its charitable, educational, or other similar exempt purpose equal in value to substantially all of its adjusted net income (as defined in § 53.4942(a)–2(d)) and which, in addition, satisfies the assets test, the endowment test or the support test set forth in § 53.4942(b)–2(a), (b) and (c).

(2) *Certain elderly care facilities described in section 4942(j)(6)*—(i) *In general.* For purposes of the distribution requirements of section 4942 (but no other provision of the Internal Revenue Code) and for taxable years beginning after December 31, 1969, the term "operating foundation" includes a private foundation which—

(A) On or before May 26, 1969, and continuously thereafter to the close of the taxable year, operates and maintains, as its principal functional purpose, residential facilities for the long-term care, comfort, maintenance, or education of permanently and totally disabled persons, elderly persons, needy widows, or children, and

(B) Satisfies the endowment test set forth in § 53.4942(b)–2 (b).

(ii) *Principal functional purpose.* For purposes of section 4942(j)(6) and this subparagraph (2), an organization's "principal functional purpose" is operating and maintaining residential facilities for the long-term care, comfort, maintenance, or education of permanently and totally disabled persons, elderly persons, needy widows, or children, if it is organized for the principal purpose of operating and maintaining such residential facilities and is primarily engaged directly in the operation and maintenance of those facilities. An organization will be treated as being primarily engaged directly in the operation and maintenance of the described residential facilities if at least 50% of the qualifying distributions (as defined in § 53.4942(a)–3(a)(2)) normally made by the organization are expended for the operation and maintenance of the facilities.

* * * * *

PART 301—PROCEDURE AND ADMINISTRATION

§ 301.6050–1 [Deleted]

Par. 3. Section 301.6050–1 is deleted.

[Fr Doc. 80–27080 Filed 9–3–80; 8:45 am]
BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 924

Approval of the Permanent Regulatory Program Submission From the State of Mississippi Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Final rule: Approval of Mississippi's Proposed Permanent Regulatory Program.

SUMMARY: On May 27, 1980, the State of Mississippi resubmitted to the Department of the Interior its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), following an earlier decision by the Secretary of the Interior to approve in part and

disapprove in part Mississippi's initial submission. The purpose of the resubmission is to demonstrate the State's intent and capability to administer and enforce the provisions of SMCRA and the permanent regulatory program regulations, 30 CFR Chapter VII.

After providing opportunities for public comment and a thorough review of the program resubmission, the Secretary of the Interior has determined that the Mississippi program meets all requirements of SMCRA and the Federal permanent program regulations. Accordingly, the Secretary of the Interior has approved the Mississippi program.

A new Part 924 is being added to 30 CFR Chapter VII to implement this decision.

EFFECTIVE DATE: This approval is effective September 4, 1980.

ADDRESSES: Copies of the Mississippi program and the administrative record on the Mississippi program are available for public inspection and copying during business hours at:

Mississippi Department of Natural Resources, Bureau of Geology and Energy Resources, 2525 N. West Street, Jackson, Mississippi 39216, Telephone (601) 354–6228.

Office of Surface Mining, Region II, 530 Gay Street SW., Suite 500, Knoxville, Tennessee 37902. Telephone (615) 637–8060.

Office of Surface Mining, Room 153, Interior South Building, 1951 Constitution Avenue, Washington, D.C. 20240. Telephone (202) 343–4728.

FOR FURTHER INFORMATION CONTACT: Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue NW., Washington, D.C. 20240. Telephone (202) 343–4225.

SUPPLEMENTARY INFORMATION:

General Background on the Permanent Program

The environmental protection provisions of SMCRA are being implemented in two phases—the initial program and the permanent program—in accordance with Sections 501–503 of SMCRA, 30 U.S.C. 1251–1253. The initial program became effective on February 3, 1978, for new coal mining operations on non-Federal and non-Indian lands which received state permits on or after that date, and was effectuated on May 3, 1978, for all coal mines existing on that date. The initial program rules were promulgated by the Secretary on December 13, 1977, under 30 CFR Parts 710–725, 42 FR 62639 *et seq.*

The permanent program will become effective in each State upon the approval of a State program by the Secretary of the Interior or implementation of a Federal program within the State. If a State program is approved, the State, rather than the Federal government, will be the primary regulator of activities subject to SMCRA.

The Federal regulations for the permanent program, including procedures for States to follow in submitting State programs and minimum standards and procedures the State programs must include to be eligible for approval, are found in 30 CFR Parts 700–707 and 730–865. Part 705 was published October 20, 1977 (42 FR 56064), Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published March 13, 1979 (44 FR 15312–15463). ERRATA notices were published March 14, 1979 (44 FR 15485), August 24, 1979 (44 FR 49678–49687), September 14, 1979, (44 FR 53507–53509), November 19, 1979 (44 FR 66195), April 16, 1980 (45 FR 26001), June 5, 1980 (45 FR 37818), and July 15, 1980 (45 FR 47424). Amendments to the rules were published October 22, 1979 (44 FR 60969), as corrected December 19, 1979 (44 FR 75143), December 19, 1979 (44 FR 75302–75303), December 31, 1979 (44 FR 77440–77447), January 11, 1980 (45 FR 2626–2629), April 6, 1980 (45 FR 25998–26001), May 20, 1980 (45 FR 33926–33927), June 10, 1980 (45 FR 39446–39447), and August 6, 1980 (45 FR 52306–52324). Portions of these rules have been suspended, pending further rulemaking. *See* November 27, 1979 (44 FR 67942), December 31, 1979 (44 FR 77447–77454), January 30, 1980 (45 FR 6913), and August 4, 1980 (45 FR 51547–51550).

General Background on State Program Approval Process

Any State wishing to assume primary jurisdiction for the regulation of coal mining under SMCRA may submit a program for consideration. The Secretary of the Interior has the responsibility to approve or disapprove the submission. The Federal regulations governing State program submissions are found at 30 CFR Parts 730–732. After review of the submission by OSM and other agencies, an opportunity for the State to make additions or modifications to the program and an opportunity for public comment, the Secretary may approve the program, approve it conditioned upon correction of minor deficiencies in accordance with a specified timetable, or disapprove the program in whole or in part. If the program is disapproved, the State may submit a revision of the program to correct the items that need to be changed to meet the requirements of SMCRA and the applicable Federal regulations. If this revised program is also disapproved, SMCRA requires the Secretary of the Interior to establish a Federal program in that State. The State may again request approval to assume primary jurisdiction after the Federal program has been implemented.

The Secretary, in reviewing State programs, is complying with the provisions of Section 503 of SMCRA, 30 USC 1253, and 30 CFR 732.15. With respect to the Mississippi program, the Secretary has followed the Federal rules as cited above under "General Background on the Permanent Program," and as affected by three recent decisions of the U.S. District Court for the District of Columbia in *In Re: Permanent Surface Mining Regulation Litigation*. That litigation is the consolidation of several lawsuits challenging the Secretary's permanent regulatory program. Because of that complex litigation, the Court issued its initial decision in two "rounds." the Round I opinion, dated February 26, 1980, denied several generic attacks on the permanent program regulations, but resulted in suspension or remanding of all or part of twenty-two specific regulations. The Round II opinion, dated May 16, 1980, denied additional generic attacks on the regulations, but remanded some 40 additional parts, sections or subsections of the regulations. The Court also ordered the Secretary to "affirmatively disapprove, under Section 503 (of SMCRA), those segments of a state program that incorporate a suspended or remanded regulation" (Mem. Op., May 16, 1980, p. 49). However, on August 15, 1980, the Court stayed this portion of its opinion. The effect of this stay is to allow the Secretary to approve state program provisions equivalent to remanded or suspended Federal provisions in the three circumstances described in paragraph 1, below. Therefore, the Secretary is applying the following standards to the review of state program submissions.

1. The Secretary need not affirmatively disapprove state provisions similar to those federal regulations which have been suspended or remanded by the District Court where the state has adopted such provisions in a rulemaking or legislative proceeding which occurred either (1) before the enactment of SMCRA or (2) after the date of the Round II District Court

decision, since such state regulations clearly are not based solely upon the suspended or remanded federal regulations. (3) The Secretary need not affirmatively disapprove provisions based upon suspended or remanded Federal rules if a responsible state official has requested the Secretary to approve them.

2. The Secretary will affirmatively disapprove all provisions of a state program which incorporate suspended or remanded Federal rules and which do not fall into one of the three categories in paragraph one, above. The Secretary believes that the effect of his "affirmative disapproval" of a section in the state's regulations is that the requirements of that section are not enforceable in the permanent program at the federal level to the extent they have been disapproved. That is, no cause of action for enforcement of the provisions, to the extent disapproved, exists in the federal courts, and no federal inspection will result in notices of violation or cessation orders based upon the "affirmatively disapproved" provisions. The Secretary takes no position as to whether the affirmatively disapproved provisions are enforceable under state law and in state courts. Accordingly, these provisions are not being pre-empted or suspended, although the Secretary may have the power to do so under Section 504(g) of SMCRA and 30 CFR 730.11.

3. A State program need not contain provisions to implement a suspended regulation and no State program will be disapproved for failure to contain a suspended regulation.

4. Nonetheless, a State must have authority to implement all permanent program provisions of SMCRA, including those provisions of SMCRA upon which the Secretary based the regulations which have been remanded or suspended.

5. A State program may not contain any provision which is inconsistent with a provision of SMCRA.

6. Programs will be evaluated only on those provisions other than the provisions that must be disapproved because of the Court's order. The remaining provisions will be unconditionally approved, conditionally approved or disapproved, in whole or in part, in accordance with 30 CFR 732.13.

7. Upon promulgation of new regulations to replace those which have been suspended or remanded, the Secretary will afford States which have approved or conditionally approved programs a reasonable opportunity to amend their programs, as appropriate. In general, the Secretary expects that the provisions of 30 CFR 732.17 will govern this process.

A list of the regulations suspended or remanded as the result of the Round I and Round II litigation was published in the Federal Register on July 7, 1980 (45 FR 45604).

To codify decisions on State programs, Federal programs, and other matters affecting individual States, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T will consist of Parts 900 through 950. Provisions relating to Mississippi will be found in 30 CFR Part 924.

Background on the Mississippi Program Submission

Mississippi's surface mining legislation was enacted in April, 1979. The original Mississippi permanent program submission was submitted to the OSM Region II Office on August 2, 1979. Appropriate distribution was made within OSM and to other governmental agencies. Announcement of receipt of the original submission was made in newspapers of general circulation in the State of Mississippi and published in the Federal Register on August 10, 1979 (44 FR 47173–47174). An appropriately announced public review meeting regarding completeness of the original submission was held in Granada, Mississippi, on September 18, 1979. Comments from the reviewers regarding completeness were coordinated and the original submission was deemed incomplete. The State was so notified on October 2, 1979, and a determination that the State program was incomplete was published in the Federal Register on October 9, 1979 (44 FR 58000–58001). On November 14, 1979, additional material including information describing program systems was received from the Mississippi Department of Natural Resources (DNR) which completed the original submission and corrected other deficiencies.

On November 20, 1979, the Regional Director published notice in the Federal Register (44 FR 66760–66761) and in newspapers of general circulation within the State that the amended Mississippi original submission was complete. The notice set forth a summary of the amended State program, the times and locations for public review of the program, and procedures for the public hearing and comment period on the substance of the Mississippi program.

Comments from reviewers regarding content of the Mississippi program were coordinated by the Region II Office and a list of deficiencies and suggestions for corrections was forwarded to the Mississippi DNR on November 28, 1979.

The public hearing regarding the Mississippi original permanent program submission was held in Meridian, Mississippi, on December 20, 1979.

The Regional Director completed his program review on January 4, 1980, and forwarded the public hearing transcript, written presentations, exhibits and copies of all comments to the Director together with a recommendation that the program be conditionally approved.

On January 30, 1980, the Administrator of the Environmental Protection Agency transmitted his written concurrence on those portions of the Mississippi program which the Secretary approved on March 25, 1980.

On February 19, 1980, the Director recommended to the Secretary that the program be approved in part and disapproved in part.

On March 3, 1980, the Secretary publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies (45 FR 13780–13781).

The Secretary approved in part/disapproved in part the Mississippi program on March 25, 1980 (45 FR 19268–19277).

On April 10, 1980, final regulations were enacted by the Mississippi Commission on Natural Resources. These regulations incorporated all previously identified corrections.

The Mississippi permanent program was resubmitted to the OSM Region II Office on May 27, 1980. Appropriate distribution was made within OSM and to other governmental agencies. Announcement of receipt of the resubmission was made in newspapers of general circulation in the State of Mississippi and published in the Federal Register on June 2, 1980 (45 FR 37223–37224).

An appropriately announced public hearing was held in Meridian, Mississippi, on June 17, 1980, and the public comment period was closed on June 20, 1980.

The public comment period was reopened on July 10, 1980 (45 FR 46449–46451) to accept comments on the Secretary's tentative determination identifying provisions in the Mississippi permanent program which incorporates suspended or remanded regulations. The comment period closed on July 25, 1980.

Public disclosure of comments by Federal Agencies was made on July 3, 1980 (45 FR 45313).

On July 29, 1980, the Administrator of the Environmental Protection Agency transmitted his written concurrence on the Mississippi program.

The Regional Director completed his program review on July 3, 1980, and

forwarded the public hearing transcripts, written presentations, exhibits, and copies of all comments to the Director together with a recommendation that the program be approved.

On August 6, 1980, the Director recommended to the Secretary that the Mississippi program be approved.

On August 21, 1980, the Director cabled the State informing Mississippi of the August 15, 1980 stay of the District Court's order and asking the State if there were any provisions which were based on suspended or remanded Federal rules and which the State did *not* want the Secretary to affirmatively disapprove. The State has not replied.

Throughout the remainder of this notice, the terms "Mississippi program" or "Mississippi submission" are used to mean the resubmission together with those parts of the original submission approved on March 25, 1980.

Secretary's Findings

In reaching his decision to approve the Mississippi program submission, the Secretary makes the following findings pursuant to Section 503 of SMCRA and 30 CFR 732.15. The Secretary finds that Mississippi has the capability to carry out the applicable provisions of SMCRA and 30 CFR Chapter VII, as interpreted and limited by applicable court decisions. (The sequence and numbering of the findings correspond to Section 503 of SMCRA and 30 CFR 732.15.)

Section 503 of SMCRA Findings

(a) The Secretary makes the following findings for the provision of Section 503(a) of SMCRA:

(1) The Mississippi Surface Coal Mining and Reclamation Act (Mississippi SCMRA), and the Mississippi Administrative Procedures Law provide for the regulation of surface coal mining and reclamation operations on non-Indian and non-Federal lands in Mississippi in accordance with the requirements of SMCRA (This part was approved in the Secretary's decision on the original submission and there have been no subsequent changes.);

(2) The Mississippi SCMRA provides sanctions for violations of Mississippi laws, regulations or conditions of permits concerning surface coal mining and reclamation operations, and these sanctions meet the requirements of SMCRA, including civil and criminal actions, forfeiture of bonds, suspensions, revocations, and withholding of permits, and issuance of cease-and-desist orders by the Mississippi DNR or its inspectors (This part was approved in the Secretary's decision on the original submission and there have been no subsequent changes.);

(3) The State program submission provides for the Mississippi DNR to have sufficient administrative and technical personnel and sufficient funding to enable Mississippi to regulate surface coal mining and reclamation operations in according with the requirements of SMCRA (This part was approved in the Secretary's decision on the original submission and there have been no subsequent changes.);

(4) Mississippi law provides for the effective implementation, maintenance and enforcement of a permit system that meets the requirements of SMCRA for the regulation of surface coal mining and reclamation operations on non-Indian and non-Federal lands within Mississippi (This part was approved in the Secretary's decision on the original submission and there have been no subsequent changes.);

(5) Mississippi has established a process for the designation of areas as unsuitable for surface coal mining in accordance with Section 522 of SMCRA;

(6) Mississippi has established, for the purpose of avoiding duplication, a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with other Federal and State permit processes applicable to the proposed operations; and,

(7) Mississippi has fully enacted regulations consistent with regulations issued pursuant to SMCRA.

(b) As required by Section 503(b) of SMCRA, 30 U.S.C. 1253 and 30 CFR 732.11–13, the Secretary, through OSM, has:

(1) Solicited and obtained the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise pertinent to the proposed Mississippi program;

(2) Obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of the Mississippi program which relate to air or water quality standards promulgated under the authority of the Clean Water Act, 33 U.S.C. 1151–1175, and the Clean Air Act, 42 U.S.C. 7401 *et seq.;*

(3) Held a public review meeting to discuss the Mississippi program submission and its completeness in Granada, Mississippi, on September 18, 1979, held a public hearing on the Mississippi program submission in Meridian, Mississippi, on December 20, 1979, and held a public hearing on the Mississippi program resubmission in Meridian, Mississippi, on June 17, 1980; and

(4) Found that the State of Mississippi has the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards of SMCRA and 30 CFR Chapter VII.

30 CFR 732.15 Findings

In accordance with 30 CFR 732.15, the Secretary further finds, on the basis of information in the Mississippi program submission, public comments and testimony and written presentations at the public hearings, and other relevant information, that:

(a) The Mississippi permanent program submission provides authority for the Mississippi DNR to assume responsibility for regulation of coal exploration and surface mining and reclamation operations as required by SMCRA and the Secretary's regulations. Findings regarding alternative provisions are unnecessary as Mississippi has not chosen to propose alternative approaches pursuant to 30 CFR 731.13.

(b) The Mississippi DNR has the authority under Mississippi laws and regulations pertaining to coal exploration and surface coal mining and reclamation operations, and the Mississippi program includes provisions to:

(1) Implement, administer and enforce all applicable requirements consistent with Subchapter K of 30 CFR Chapter VII;

(2) Implement, administer and enforce a permit system consistent with the regulations of Subchapter G of 30 CFR Chapter VII and prohibit surface coal mining and reclamation operations without a permit issued by the Mississippi DNR;

(3) Regulate coal exploration consistent with 30 CFR 776 and 815 and prohibit coal exploration that does not comply with 30 CFR 776 and 815;

(4) Require that persons extracting coal incidental to government-financed construction maintain information on-site consistent with 30 CFR 707. Section 731.14(g)(4) of the systems section adequately describes enforcement procedures;

(5) Enter, inspect and monitor all coal exploration and surface coal mining and reclamation operations on non-Indian and non-Federal land within Mississippi consistent with the requirements of Section 517 of SMCRA and Subchapter L of 30 CFR Chapter VII;

(6) Implement, administer and enforce a system of performance bonds and liability insurance or other equivalent guarantees consistent with the

requirements of Subchapter J of 30 CFR Chapter VII;

(7) Provide for civil and criminal sanctions for violations of the Mississippi SCMRA pursuant to regulations and conditions of permits and exploration approvals including civil and criminal penalties in accordance with Section 518 of SMCRA and consistent with 30 CFR Part 845, including the same or similar procedural requirements;

(8) Issue, modify, terminate and enforce notices of violation, cessation orders and show cause orders in accordance with Section 521 of SMCRA and consistent with the requirements of Subchapter L of 30 CFR Chapter VII, including the same or similar procedural requirements.

One deficiency was noted in Systems Section 731.14(g)(5) in that the state appeared to have reserved solely to the administrator of the state regulatory authority the power to impose affirmative obligations. 30 CFR Chapter VII requires that field inspectors have the authority to impose such obligations. On August 21, 1980, the OSM regional office in Knoxville, Tennessee contacted the state concerning the deficiency (Administrative Record Control Number MS-299). The state replied verbally, and confirmed in writing on August 22, 1980 (Administrative Record Control Number MS-300), that the use of the word "administrator" had been inadvertent. The state also submitted with the August 22, 1980 letter a corrected copy of Systems Section 731.14(g)(5) in which the intended word "inspector" has been substituted for "administrator." The correction makes the Systems Section consistent with Mississippi law and regulations which do provide that inspectors have authority to impose affirmative obligations and which are consistent with SMCRA and 30 CFR Chapter VII;

(9) Designate areas as unsuitable for surface coal mining consistent with Subchapter F of 30 CFR Chapter VII;

(10) Provide for public participation in the development, revision and enforcement of Mississippi regulations and the Mississippi program, consistent with public participation requirements of SMCRA and 30 CFR Chapter VII;

(11) Monitor, review and enforce the prohibition against indirect or direct financial interests in coal mining operations by employees of the Mississippi DNR, consistent with 30 CFR 705;

(12) Require the training, examination and certification of persons engaged in or responsible for blasting and the use of explosives consistent with regulations issued by the Secretary. The Mississippi DNR is not required to implement this provision under the Mississippi program until six months after Federal regulations for this provision have been promulgated. Mississippi has made provisions under Section 731.14(g)(13) of the systems section to adopt blasting regulations and procedures in accordance with forthcoming Federal regulations;

(13) Provide for small operator assistance consistent with Part 795 of 30 CFR Chapter VII. Section 12(4) of Mississippi SCMRA provides authority for development of a Small Operator Assistance Program and Part 195 of the Mississippi Regulations provides for implementation consistent with Part 795 of 30 CFR Chapter VII. Since coal mining is not expected to begin in Mississippi for at least five years and no small operators are expected at that itme, detailed procedures have not been effected. However, Section 731.16(g)(16) provides for immediate structuring of a Mississippi SOAP upon indication of forthcoming small operator activity;

(14) Provide for the protection of Mississippi State employees of the DNR in accordance with the protection afforded Federal employees under Section 704 of SMCRA (This part was approved in the Secretary's decision on the original submission and there have been no subsequent changes.);

(15) Provide for administrative and judicial review of State program actions, in accordance with Sections 525 and 526 of SMCRA and Subchapter L of 30 CFR Chapter VII; and

(16) Cooperate and coordinate with and provide documents and other information to OSM under the provision of 30 CFR Chapter VII.

(c) The Mississippi Surface Coal Mining and Reclamation Act, the law creating the Mississippi DNR, the Mississippi DNR's regulations and the Mississippi program do not contain provisions which would interfere with or preclude implementation of the provisions of SMCRA and 30 CFR Chapter VII. Accordingly there are no Mississippi laws or regulations inconsistent with SMCRA which must be set aside. However, there are provisions in Mississippi's laws and regulations which are being "affirmatively disapproved" in compliance with the District Court's order. These provisions are listed in 30 CFR 924.10(b) below.

(d) At present there is no coal mining in Mississippi and none is expected until about 1985. The Regulatory Authority is the Mississippi Department of Natural Resources. There are adequate legal, administrative and technical personnel available and committed to program development and eventual implementation to regulate the single large coal mining operation that is anticipated. Expansion plans will go into effect some time prior to submission of the first permit application and further expansion will continue through the beginning of the first actual coal (lignite) mining operation. These expansion plans include adequate legal, technical and administrative personnel, and the present and anticipated funding level is adequate to implement, administer and enforce the provisions of the program, the requirements of the regulations and other applicable State and Federal laws (This part was approved in the Secretary's decision on the original submission and there have been no subsequent changes which alter this decision.).

Disposition of Comments

There were no comments from the public on Mississippi's resubmission. Of those Federal agencies contacted, comments were received only from the Tennessee Valley Authority. These comments related to blasting and suggested that additions and alterations were needed in the wording of State Regulations Section 180.13, 216.64, and 216.68 in the interest of clarity or stringency. However, in all of the instances in question the wording of the Mississippi regulations is identical to that of the Federal regulations and different wording will not be required by the Secretary under 30 CFR Chapter VII.

Approval

The Mississippi program is in compliance with and has fulfilled all the requirements of SMCRA and in all other respects meets the criteria for approval. Accordingly, the Secretary is approving the Mississippi program.

As stated above, in its May 16, 1980 opinion, the U.S. District Court for the District of Columbia ordered the Secretary to affirmatively disapprove any regulation in a State program which incorporates a suspended or remanded regulation. In 30 CFR 924.10(b)(2), being adopted today, there is a list of provisions contained in the Mississippi submission which are based on suspended or remanded Federal regulations. The list indicates the extent to which an affected regulation is disapproved if other than its entirety. The Secretary is today affirmatively disapproving these regulations/provisions to the extent indicated or, if no limitation is indicated, in their entirety.

This approval is effective September 4, 1980. Beginning on that date, the Mississippi Department of Natural

Resources shall be deemed the regulatory authority in Mississippi and all Mississippi surface coal mining and reclamation operations on non-Federal and non-Indian lands and all coal exploration on non-Federal and non-Indian lands in Mississippi shall be subject to the permanent regulatory program.

On non-Federal and non-Indian lands in Mississippi the permanent regulatory program consists of the State program approved by the Secretary.

The Secretary's approval of the Mississippi program relates at this time only to the permanent regulatory program under Title V of SMCRA. The approval does not constitute approval of any provisions related to implementation of Title IV under SMCRA, the abandoned mined lands reclamation program. In accordance with 30 CFR Part 884, Mississippi may submit a State Reclamation Plan now that its permanent program has been approved. At the time of such a submission, all provisions relating to abandoned mined lands reclamation will be reviewed by officials of the Department of the Interior.

Additional Findings

The Secretary has determined that, pursuant to Section 702(d) of SMCRA 30 USC 1292(d), no environmental impact statement need be prepared on this approval.

Note.—The Secretary has determined that this document is not a significant rule under E.O. 12044 or 43 CFR Part 14 and no regulatory analysis is being prepared on this approval.

Dated: August 28, 1980.

James A. Joseph,

Acting Secretary of the Interior.

A new Part, 30 CFR Part 924, is adopted to read as follows:

PART 924—MISSISSIPPI

Sec.
924.1 Scope.
924.10 State program approval.

Authority.—Pub. L. 95–87, 30 U.S.C. 503.

§ 924.1 Scope.

This Part contains all rules applicable only within the State of Mississippi which have been adopted under the Surface Mining Control and Reclamation Act of 1977.

§ 924.10 State program approval.

(a) The Mississippi State program, as submitted on August 2, 1979, and resubmitted on May 27, 1980, is approved, effective September 4, 1980. Copies of the approved program are available at:

(1) Mississippi Department of Natural Resources, Bureau of Geology and Energy Resources, 2525 N. West Street, Jackson, Mississippi 39216. Telephone (601) 354–6228.

(2) Office of Surface Mining Reclamation and Enforcement, Region II, Suite 500, 530 Gay Street, SW., Knoxville, Tennessee 37902. Telephone (615) 637–8060.

(3) Office of Surface Mining, Room 153, Interior South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: (202) 343–4728.

(b) In its May 16, 1980 opinion, the U.S. District Court for the District of Columbia ordered the Secretary to affirmatively disapprove any regulation in a State program which incorporates a suspended or remanded regulation. A list follows of provisions contained in the Mississippi submission which are based on suspended or remanded Federal regulations. These regulations are affirmatively disapproved to the extent indicated or, if no limitation is indicated, in their entirety.

(1) The definition of "Mine Plan Area" in Section 101 and its use in Sections 179, 180, 183 and 184 to the extent the definition includes areas outside the permit area.

(2) Sections 100.11 (a), (b), and (c) insofar as they may be read to retain discretion in the Mississippi DNR to grant an exemption from reconstruction of existing structures after making the findings in Sections 180.12 or 184.12.

(3) In Section 161.5(2)(i), the "all permits test" used in defining valid existing rights to the extent it does not include persons who had made good faith applications for all necessary permits, but not yet received them.

(4) In Section 161.5, the definition of "public road."

(5) Under Sections 161.11(c) and .12(f)(1) the limitation on surface mining operations which will affect places eligible for listing on the National Register of Historical Places.

(6) Sections 161.11(c) and .12(f)(1) insofar as they would apply to privately-owned places listed on the National Register of Historic Places in addition to publicly-owned places.

(7) Sections 176.11(b) (3) and (5) to the extent that they require the notice of exploration to include a map rather than a description only.

(8) Sections 179.20 and 180.16.

(9) Sections 179.21 and 183.21, to the extent they apply to land not qualifying as prime farmland.

(10) Section 183.14(a)(1) insofar as it requires a geologic description of the strata down to and immediately below any coal seam for areas to be affected only by "surface operations and facilities" where removal of overburden down to level of coal seam will not occur.

(11) Sections 183.25 (c), (h) and (i).

(12) Section 185.17(a) insofar as it exempts permits approved prior to August 3, 1977, from prime farmland reconstruction standards.

(13) Sections 185.17(b)(3) and 223.14(c).

(14) Section 185.17(b)(8).

(15) In Section 186.5 the words "or has not been" from the definition of "irreparable harm to the environment."

(16) Sections 206.12(e)(6)(iii) and (g)(7)(iii).

(17) Section 207.11(e) insofar as it does not allow citizen access to the mine site for performance bond release.

(18) Section 208.14(b).

(19) Sections 216.42(a) (1) and (7) insofar as they require that runoff from reclaimed lands meet the same effluent limitations as that for actively mined lands.

(20) Sections 216.42(b) and 217.42(b).

(21) Sections 216.46(b) and 217.46(b).

(22) Sections 216.46(c) and 217.46(c).

(23) In Sections 216.46(d) and 217.46(d), the words "and shall have a discharge rate to achieve and maintain the required theoretical detention time."

(24) Sections 216.46(h) and 217.46(h).

(25) Section 216.65(f) and 217.65(f).

(26) Sections 216.83(a) and 217.83(a) to the extent that they would preclude an exemption from the underdrain requirement for coal processing waste banks where an operator can demonstrate that an alternative to the required subdrainage systems would ensure structural integrity of the waste bank and protection of ground or surface water quality.

(27) Sections 216.95 and 217.95.

(28) Sections 216.103(a)(1) and 217.103(a)(1).

(29) Sections 216.115, 217.115, 223.11(c) 223.15(b) and 223.15(c), to the extent that they exceed the statutory authority which requires only that restored land be "capable" of supporting the designated use.

(30) Sections 216.116(b) and 217.116(b) to the extent that they delay triggering an operator's five year period of responsibility for revegetation until the operator meets the standard for vegetative cover.

(31) Sections 216.133(b)(1) and 217.133(b)(1), to the extent that an operator is not allowed to choose between restoring the land to condition capable of supporting prior-to-mining use or to higher use.

(32) Sections 216.133(c)(4) and (9) and 217.133(c)(4) and (9) concerning

information needed to support alternative land uses to the extent that the operator need only demonstrate a "reasonable likelihood" of attaining a post mining use that is higher or better than previous use.

(33) Sections 216.150–176 and 217.150–176 concerning roads to the extent that notice and opportunity to comment must be provided to the public on the road classification system.

(34) Section 217.52(a), the language "on the recharge capacity of reclaimed land and * * *", concerning groundwater monitoring to the extent that special precautionary measures for underground mining operations are not necessary to protect the recharge capacity of water bearing formations.

(35) Section 217.54 concerning hydrologic balance to the extent that water replacement is only required for surface coal mining operations.

(36) Sections 217.101(b)(1) and 217.102 concerning backfilling and grading to the extent that Appropriate Original Contour (AOC) regulations do not provide flexibility for settled fills that have become stabilized and revegetated.

(37) Part 223 concerning performance standards for operations on prime farmlands to the extent that it prevents an exemption for surface facilities actively used over extended periods but which affect a minimal amount of land.

[FR Doc. 80-27100 Filed 9-2-80; 8:45 am]
BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1559-8]

Approval and Revision of the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's approval of the revision of the Maryland State Implementation Plan (SIP) consisting of a Consent Order for the Firestone Plastics Company, Inc., in Perryville, Maryland. This order grants an exception to Firestone from portions of Maryland Regulation COMAR 10.18.07 that permits the company to construct and operate a new boiler with relaxed requirements. The ambient air quality standards are presently being met in the Perryville, Maryland area and this exception is not expected to cause any violations of the standards or the Prevention of Significant Deterioration (PSD) increments.

EFFECTIVE DATE: October 6, 1980.

ADDRESSES: Copies of the revision and the accompanying support documents are available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building—10th floor, 6th & Walnut Streets, Philadelphia, PA 19106. ATTN: Patricia Sheridan.

Bureau of Air Quality and Noise Control, State of Maryland, 201 W. Preston Street, Baltimore, MD 21201; ATTN: George Ferreri.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street SW. (Waterside Mall), Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Edward A. Vollberg (3AH11), U.S. Environmental Protection Agency, Region III, 6th and Walnut Streets, Curtis Building—10th floor, Philadelphia, PA 19106. Phone: (215) 597–8990.

SUPPLEMENTARY INFORMATION:

Background

On December 1, 1978, the State of Maryland submitted to EPA, Region III, a proposed revision of the Maryland State Implementation Plan consisting of a Consent Order for the Firestone Plastics Company, Inc., of Perryville, Maryland. The submittal contained a certification that the order was adopted in accordance with the public hearing and the notice requirement of 40 CFR Part 51.4 and all relevant State procedural requirements. The public hearing was held on August 25, 1978. The State of Maryland requests that EPA consider the Consent Order as a revision of the State Implementation Plan. The order exempts the construction and operation of a new boiler at the Perryville facility from the provisions of COMAR 10.18.07.03B(2)(1) which requires the installation of dust collection equipment on residual oil-fired boilers. Concurrently the order modifies COMAR 10.18.07.02B (which permits no visible emissions) to allow the boiler to have visible emissions not exceeding 20% opacity; and modifies COMAR 10.18.07.03B(2)a (which limits particulate emissions to 0.03 gr/SCFD) thereby allowing the new boiler to emit particulate matter at 0.06 gr/SCFD, corrected to 50% excess air.

The boiler was subject to PSD review for sulfur dioxide emissions, and a permit was issued to the source on July 3, 1979. The Best Available Control Technology (BACT) requirements of the permit will limit the sulfur-in fuel which is directly related to the formation of particulate matter and therefore affects the amount of particulate matter emissions from a residual oil-fired boiler. The permit conditions will limit the particulate emissions such that they will have an insignificant impact. This is supported by modeling submitted by the State of Maryland on June 1, 1979, which shows no violations of the ambient air quality standards or the PSD increments.

Therefore, it is the Administrator's decision to approve the order as a revision of the Maryland State Implementation Plan.

A 30-day comment period was provided for the public to submit comments on approving the Firestone Plastics Consent Order as a revision of the Maryland State Implementation Plan, during which time no public comments were received.

Final Action

In view of the above evaluation, the Administrator approves the above mentioned amendments to COMAR 10.18.07 as represented in the consent order for the Firestone Plastics Company, Inc., Perryville, Maryland as a revision to the Maryland SIP effective (on publication of notice). Concurrently 40 CFR Section 52.1070 (Identification of Plan) is amended to incorporate these amendments into the Federally approved Maryland SIP.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401–7642)

Dated: August 27, 1980.

Barbara Blum,

Acting Administrator.

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

1. In § 52.1070 paragraph (c)(33) is added as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(33) a consent order amending regulation 10.18.07, 10.18.07.02B, 10.18.07.03B(2)a, for the Firestone Plastics Co., Inc., Perryville, Maryland, submitted on December 1, 1978, by the

Maryland Environmental Health Administration.

[FR Doc. 80-26978 Filed 9-3-80; 8:45 am]
BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1594-5]

Approval and Promulgation of Michigan State Implementation

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On May 6, 1980 (45 FR 29790), the United States Environmental Protection Agency (USEPA) announced final rulemaking to conditionally approve certain revisions to the Michigan State Implementation Plan (SIP). A notice of proposed rulemaking (45 FR 29864), also published on May 6, 1980, solicited public comment on the deadlines by which the State of Michigan has committed itself to remedy conditionally approved portions of its SIP. This notice takes final action to approve those deadlines.

EFFECTIVE DATE: This final rulemaking becomes effective on October 6, 1980.

ADDRESSES: Copies of the SIP revision, public comments on the Notice of Proposed Rulemaking (45 FR 29864), and USEPA's evaluation and response to comments are available for inspection at the following addresses:

U.S. Environmental Protection Agency, Region V, Air Programs Branch, 230 S. Dearborn Street, Chicago, Illinois 60604.

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Judy Kertcher, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6038.

SUPPLEMENTARY INFORMATION: On May 6, 1980 (45 FR 29790). The United States Environmental Protection Agency (USEPA) announced final rulemaking on revisions to the Michigan State Implementation Plan (SIP). Michigan submitted these revisions to satisfy the requirements of Part D of the Clean Air Act, as amended in 1977. In the final rulemaking, USEPA conditionally approved certain revisions to the Michigan SIP. A discussion of conditional approval and its practical effect appears in the July 2, 1979, Federal Register (45 FR 38583 and the November 23, 1979 Federal Register (45 FR 67182). A conditional approval requires the State to remedy identified deficiencies by specified deadlines. A notice of proposed rulemaking (45 FR 29864), also published on May 6, 1980, solicited public comment on the deadlines by which the State of Michigan has committed itself to remedy conditionally approved portions of its SIP. No comments were received. This notice announces USEPA final rulemaking action to approve those deadlines.

In some instances, the State has made a commitment to submit regulations to the Michigan Air Pollution Control Commission by a specified date. Because the State cannot legally prejudge the outcome of the Commission's statutorily mandated proceedings, it cannot assure USEPA that the regulations will be promulgated. Therefore, the State has not made commitments either to promulgate the regulations or to a specific date for promulgation. In these cases, USEPA proposed a date by which the State must promulgate and submit the regulations to USEPA. USEPA believes that this is necessary in order to guarantee that the deficiencies are adequately addressed and that the plan is adequate to satisfy the requirements of the Act. In establishing the date by which any necessary regulations must be promulgated, USEPA has taken into consideration the lengthy Michigan Air Pollution Control Commission rulemaking procedures which require review of regulations by several State offices and committees and approval by the Michigan State Legislature.

USEPA takes final action today to approve the following schedules for the State's correction of deficiencies in the Michigan SIP:

Schedules

Total Suspended Particulates

1. The State has committed itself to the schedule below for the adoption of industrial fugitive regulations that represent RACT for traditional sources. This commitment does not extend to sources in the iron and steel category.

a. Conduct public hearings throughout the State—January, 1980.
b. Prepare a summary of the public comments and revise rules if appropriate—February 1980.
c. Formal rule adoption by the Commission—April, 1980.
d. Obtain approval from the Legislative Service Bureau, Attorney General's Office and Joint Legislative Rules Committee—August, 1980.
e. File rules with Secretary of State and submit to USEPA for approval—January, 1981.

2. The State has committed itself to the following schedule for additional particulate studies in the Detroit area:

Item and Completion Date

a. Particulate size distribution report—February, 1980.
b. Refinement of the emission inventory—June, 1980.
c. Assessments of meteorological variables—June, 1980.
d. Analysis of the microscopy report—June, 1980.
e. Submit to USEPA—September, 1980.

Ozone

1. The State has committed itself to either promulgate a rule with 120,000 gallon per year throughput exemption for gasoline dispensing facilities and submit it to USEPA or demonstrate that allowable emissions resulting from the application of its existing rule with 250,000 gallon per year throughput exemption for gasoline dispensing facilities are less than five percent greater than the allowable emissions resulting from the application of the CTG presumptive norm. The State has committed itself to comply with this condition by May 6, 1981. USEPA has prescribed an additional condition that any necessary regulation be finally promulgated by the State and submitted to USEPA by September 30, 1981.

If the State fails to submit the required materials according to the negotiated schedule, USEPA will publish a Federal Register notice shortly after the expiration of the time limit for submission. The notice will announce that the conditional approval is withdrawn, the SIP is disapproved and Section 110(a)(2)(f) restrictions on growth are in effect.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this final action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of (date of publication). Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under Executive Order 12044, USEPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. USEPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice is issued under authority of Sections 110, 172 and 301(a) of the Clean Air Act, as amended, (U.S.C. 7410, 7502, 7601(a)).

Dated: August 27, 1980.

Barbara Blum,

Acting Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter 1, Part 52 is amended as follows:

1. Section 52.1173 is revised to read as follows:

§ 52.1173 Control Strategy: particulates.

(a) Part D—Conditional Approval—The Michigan plan for primary and secondary nonattainment areas which do not include iron and steel sources is approved provided that the following conditions are satisfied:

(1) The State officially adopts final industrial fugitive regulations that represent RACT for traditional sources and submits these finally effective regulations to USEPA according to the following schedule:

Item and Completion Date

Conduct public hearings throughout the State—January, 1980.
Prepare a summary of the public comments and revise rules if appropriate—February, 1980.
Formal rule adoption by the Commission—April, 1980.
Obtain approval from the Legislative Service Bureau, Attorney General's Office and Joint Legislative Rules Committee—August, 1980.
Final rules with Secretary of State and submit to USEPA for approval—January, 1980.

(2) The State conducts additional particulate studies in the Detroit area according to the following schedule:

Item and Completion Date

Particulate size distribution report—February, 1981.
Refinement of the emission inventory—June, 1980.
Assessments of meteorological variables—June, 1980.
Analysis of the microscopy report—June, 1980.
Submit to USEPA—September, 1980.

(b) Part D—No Action—USEPA takes no action on the adequacy of rules submitted by Michigan to control particulate emissions from the iron and steel making industries. Therefore, USEPA takes no action on the control strategy for particulates in those areas which are designated nonattainment for particulate and which contain iron and steel sources.

2. Section 52.1174 is revised to read as follows:

§ 52.1174 Control Strategy: ozone.

(a) Part D—Conditional Approval—Michigan Rules 336.1603 and 336.1606 are approved provided that the following conditions are satisfied:

(1) Rule 336.1603—The State submits detailed compliance schedules containing increments of progress by March 31, 1981 for sources with final compliance dates prior to December 31, 1982 and by September 30, 1981 for sources with final compliance dates beyond December 31, 1982.

(2) Rule 336.1606—The State either promulgates a rule with a 120,000 gallon per year throughput exemption for gasoline dispensing facilities and submits it to USEPA or demonstrates that allowable emissions resulting from the application of its existing rule with 250,000 gallon per year throughput exemption for gasoline dispensing facilities are less than five percent greater than the allowable emissions resulting from the application of the CTG presumptive norm. The State must comply with this condition by May 6, 1981, and any necessary regulations must be finally promulgated by the State and submitted to USEPA by September 30, 1981.

[FR Doc. 80-27150 Filed 9-3-80; 8:45 am]
BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1562-5]

South Dakota; Approval and Promulgation of State Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The purpose of this action is to approve the revisions to the South Dakota State Implementation Plan (SIP) submitted by the Governor of South Dakota on January 21, 1980. The revisions are concerned with Section 127 of the Clean Air Act (CAA) regarding public notification, and Part 58 of Title 40, Code of Federal Regulations regarding monitoring requirements. On May 5, 1980 (45 FR 29596), EPA published a notice of proposed rulemaking which described the nature of the SIP revisions and requested public comment. No comments were received.

Through publication of this notice, EPA acknowledges that effective on July 1, 1980, the regulations contained in South Dakota's SIP will "sunset" and no longer be in effect under State law. A period of some weeks is anticipated before South Dakota repromulgates its SIP regulations. Because of the agency's concerns with the State's enforcement authority during this period, the agency will assume lead enforcement responsibility for the South Dakota SIP until such time as South Dakota repromulgates its regulations.

DATES: Effective September 4, 1980.

FOR FURTHER INFORMATION CONTACT: Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3471.

SUPPLEMENTARY INFORMATION: EPA finds good cause exists for making the action taken in this notice immediately effective because South Dakota's Implementation Plan revisions are already in effect under regulation and EPA approval poses no additional regulatory burden on January 21, 1980.

Pursuant to Part 51.285 and Part 58 of Title 40, *Code of Federal Regulations,* the State of South Dakota submitted proposed State Implementation Plan revisions for public notification and certain monitoring requirements respectively. The following is a discussion of these provisions and the issues involved.

Public Notification

Since the State of South Dakota has no cities larger than 200,000 people only it is required to present an annual report. South Dakota plans to announce violations once each calendar quarter to the appropriate news media, concerned interest groups, and the Regional Administrator of the Environmental Protection Agency. The notices will include the date, location, and pollutant standard violated, as well as with the possible health effects and measures the public can take to help prevent future exceedances.

Monitoring Requirements

This SIP revision establishes the state and local air monitoring stations (SLAMS), special purpose monitoring stations (SPMS), the maintenance of monitoring stations, and the method of data reporting and annual reviews which pertain to the above stations. The SLAMS stations will monitor ambient levels of "criteria pollutants;" i.e., pollutants which have an established national ambient air quality standard (NAAQS). Once obtained, this data will be used mostly for determining compliance with the NAAQS, determining if a source which emits

criteria pollutants requires controls, tracking air pollution episodes and determining the impact of certain sources. The process of network design was carried out as required by Appendix D of 40 CFR Part 58. A network description will be available for review at the Joe Foss Building in Pierre, South Dakota, which will include the following: a) Saroad site identification form for existing stations, b) analyzer description, c) sample of analysis procedure, d) operating schedule, e) monitoring objective, and f) spatial scale of representativeness. All SLAMS stations will be operated in accordance with the criteria established in Subpart B to 40 CFR Part 58 and will be sited according to Appendix E to 40 CFR Part 58. Reference or equivalent monitors will be used as defined in 40 CFR 50.1 and the quality assurance procedures will be followed as outlined in Appendix A to 40 CFR Part 58.

South Dakota will operate SPMS monitoring stations in order to determine the effect of point sources, to conduct research studies, and to judge the anticipated growth patterns. Episode monitoring will also be conducted when it appears the conditions are right for an episode.

All SLAMS data for a calendar year will be summarized and submitted to EPA by July 1 of the following year. The information reported will be those values required by Appendix F to CFR Part 58.

Beginning January 1, 1980, the State will review annually their SLAMS network to insure that the monitors are located where needed. A report shall be submitted to EPA Region VIII by April 1 of each year, which will include a schedule to add, relocate or eliminate stations. These needs will be determined based on the requirements in Appendix D to 40 CFR Part 58 or references therein.

The State of South Dakota will establish and operate a network of National Air Monitoring Stations (NAMS) as required in Subpart D of 40 CFR Part 58. The NAMS stations also will be SLAMS stations and the design procedure for NAMS will be identical to that for SLAMS.

On May 5, 1980 (45 FR 29596), EPA published a notice of proposed rulemaking which described the nature of the SIP revision and requested public comment. No comments were received and no new issues were raised. Therefore, EPA approves the SIP revision concerning public notification and SLAMS and SPMS sites.

Under section 307(b)(1) of the Clean Air Act, judicial review of this final rule is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of (date of publication in the Federal Register). Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice is issued under the authority of Section 110 of the Clean Air Act as amended.

Dated: August 27, 1980.

Barbara Blum,

Acting Administrator.

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

Subpart QQ—South Dakota

1. Section 52.2170(c)(7) is added as follows:

§ 52.2170 Identification of plan.

* * * * *

(c) * * *

(7) On January 21, 1980, the Governor submitted a plan revision to meet the requirements of Air Quality Monitoring 40 CFR Part 58, subpart C, Paragraph 58.20, and Public Notification required under Section 127 of the Clean Air Act.

[FR Doc. 80-26977 Filed 9-3-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 5887]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed/in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood-prone areas, as shown on the Office of Federal Insurance and Hazard Mitigation's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would

be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A-95.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of suspended communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
California	San Bernardino	Colton, city of	060273A	Jan. 15, 1974, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	June 7, 1974	Sept. 17, 1980.
Do	Tehama	Tehama, city of	060400A	Feb. 10, 1975, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Dec. 24, 1974	Do.
Colorado	Eagle	Minturn, town of	080053B	Sept. 26, 1975, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Aug. 16, 1974 Apr. 4, 1976	Do.
Connecticut	New London	Noank fire district	090129A	Sept. 25, 1973, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Feb. 21, 1975	Do.
Florida	Seminole	Sanford, city of	120294B	Jan. 21, 1975, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Aug. 16, 1974	Do.
Do	Osceola	St. Cloud, city of	120191B	Apr. 23, 1975, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	June 28, 1974 Feb. 20, 1976	Do.
Illinois	Cook	Alsip, village of	170055C	Jan. 13, 1975, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Mar. 22, 1974 Mar. 26, 1976 June 2, 1976	Do.
Do	Henry	Colona, village of	170749A	July 7, 1976, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Oct. 29, 1976	Do.
Do	....do	Lisle, village of	170211B	July 6, 1973, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	July 6, 1973 Nov. 8, 1974	Do.
Iowa	Clinton	Clinton, city of	190088B	June 11, 1974, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	June 28, 1974 Sept. 17, 1976	Do.
Kentucky	Kenton	Independence, city of	210240B	Oct. 10, 1974, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Feb. 8, 1974 July 16, 1976	Do.
Michigan	St. Clair	Cottrellville, township of	260196B	Apr. 12, 1974, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Apr. 12, 1974 Dec. 31, 1976	Do.
Montana	Flathead	Kalispell, city of	300025B	July 27, 1976, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Feb. 15, 1974 May 21, 1976	Do.
New Jersey	Passaic	Hawthorne, borough of	340400B	June 28, 1973, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Nov. 30, 1973 July 16, 1976	Do.
Do	Camden	Lindenwold, borough of	340137B	Jan. 12, 1976, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Nov. 22, 1974 June 18, 1976	Do.
Do	....do	Stratford, borough of	340146B	Mar. 21, 1975, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Mar. 22, 1974 July 16, 1976	Do.
New York	Steuben	Campbell, town of	360768B	Apr. 19, 1973, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	May 31, 1974 Mar. 26, 1976	Do.
Ohio	Cuyahoga	Bedford Heights, city of	390096B	June 11, 1975, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Mar. 22, 1974 Apr. 30, 1976	Do.
Do	....do	Maple Heights, city of	390114B	July 22, 1975, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Feb. 8, 1974 Apr. 9, 1976	Do.
Oregon	Jackson	Gold Hill, city of	410094B	Aug. 5, 1974, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Jan. 9, 1974 Jan. 2, 1976	Do.
Pennsylvania	Delaware	Aldan, borough of	420401B	Aug. 26, 1974, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Aug. 26, 1974 June 11, 1976	Do.
Do	Lycoming	Cummings, township of	420638B	June 6, 1973, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Aug. 30, 1974 July 2, 1976	Do.
Do	....do	Eldred, township of	421839A	June 20, 1974, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Dec. 6, 1974	Do.
Do	Luzerne	Hollenback, township of	421831A	Sept. 30, 1975, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Dec. 13, 1974	Do.
Do	....do	Jackson, township of	420610B	Mar. 16, 1973, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	June 10, 1977	Do.
Do	Lycoming	Lycoming, township of	420644C	May 4, 1973, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	May 17, 1974 Aug. 20, 1976 Nov. 19, 1976	Do.
Do	Delaware	Newtown, township of	420991B	Sept. 15, 1972, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Jan. 23, 1974 June 11, 1976	Do.
Do	Mifflin	Oliver, township of	421882A	Aug. 29, 1975, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Feb. 14, 1975	Do.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Do	Lycoming	Upper Fairfield, township of	420560B	May 15, 1973, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Jan. 13, 1978	Do.
Texas	Tarrant	Saginaw, city of	480610B	Apr. 16, 1976, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Mar. 8, 1974 Sept. 24, 1976	Do.
Do	Dallas	Wilmer, city of	480190B	June 2, 1975, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	Feb. 1, 1974 June 11, 1976	Do.
Virginia	Wise	Appalachia, town of	510319B	Mar. 27, 1975, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended.	May 10, 1974 June 25, 1976	Do.
Illinois	Du Page	Clarendon Hills, village of	170203B	Aug. 29, 1973, emergency, Sept. 27, 1980, regular, Sept. 27, 1980, suspended.	Mar. 8, 1974 Dec. 16, 1975	Sept. 27, 1980.

[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued August 21, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-26627 Filed 9-3-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 64

[Docket No. FEMA 5885]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National flood Insurance Program, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553 (b) are impracticable and unnecessary.

The Catalog of domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Alabama	Sumter	York, city of	010196A	Aug. 1, 1980, suspension withdrawn.	June 11, 1975.
California	Santa Cruz	Unincorporated areas	060353B	do	Aug. 16, 1974 and May 29, 1979.
Do	Santa Clara	Gilroy, city of	060340B	do	May 31, 1974 and June 4, 1976.
Colorado	Boulder	Lyons, town of	080029B	do	Dec. 28, 1973.
Connecticut	Hartford	Rocky Hill, town of	090142B	do	June 7, 1974 and June 17, 1977.
Georgia	Chatham	Unincorporated areas	130030A	do	Mar. 5, 1976.
Do	Cobb	Powder Springs, city of	130056B	do	Apr. 12, 1974 and Aug. 27, 1976.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Illinois	Lake	Old Mill Creek, village of	170385B	do	Aug. 30, 1974 and May 14, 1976.
Do	do	Round Lake, village of	170388B	do	Mar. 29, 1974 and June 25, 1976.
Do	do	Round Lake Beach, village of	170389B	do	Apr. 5, 1974 and Mar. 26, 1976.
Do	Cook	South Holland, village of	170163B	do	Mar. 15, 1974, July 1, 1977, and July 14, 1978.
Do	do	Thornton, village of	170168C	do	Apr. 5, 1974, June 4, 1976, and Apr. 21, 1978.
Do	Lake	Vernon Hills, village of	170394C	do	Feb. 4, 1977.
Indiana	do	Schneider, town of	180143B	do	Dec. 17, 1973 and June 11, 1976.
Do	Clark	Sellersburg, town of	180028B	do	Nov. 23, 1973 and July 16, 1976.
Kentucky	Warren	Bowling Green, city of	210219A	do	May 31, 1974 and Dec. 10, 1976.
Do	Fulton	Fulton, city of	210076B	do	Feb. 15, 1974 and Nov. 15, 1974.
Do	Davies	Owensboro, city of	210063B	do	May 24, 1974 and Feb. 20, 1976.
Do	Warren	Unincorporated areas	210312B	do	July 15, 1977 and Apr. 7, 1978.
Maine	Aroostook	Caribou, city of	230014B	do	Apr. 12, 1974 and Aug. 27, 1976.
Michigan	Genesee	Burton, city of	260287B	do	Dec. 3, 1976.
Do	Ingham	East Lansing, city of	260089B	do	May 24, 1974 and July 30, 1976.
Do	Genesee	Grand Blanc, township of	260079B	do	Aug. 19, 1977.
Do	Wayne	Grosse Ile, township of	260227B	do	June 7, 1974 and July 11, 1975.
Minnesota	Dakota	Inver Grove Heights, city of	270106B	do	May 24, 1974 and July 16, 1976.
Missouri	Howell	Mountain view, city of	290165B	do	May 10, 1974 and June 18, 1976.
Montana	Lincoln	Unincorporated areas	300157B	do	Jan. 10, 1978.
Nebraska	Hall	do	310100B	do	Dec. 20, 1974 and June 21, 1977.
New Jersey	Middlesex	South Plainfield, borough of	340279B	do	Feb. 22, 1974 and Mar. 5, 1976.
New York	Steuben	Lindley, town of	360778B	do	June 21, 1974 and June 18, 1976.
North Dakota	Pembina	Drayton, city of	380150C	do	May 24, 1974, Apr. 16, 1976, and Feb. 4, 1977.
Ohio	Hamilton	Amberley, village of	390206A	do	
Do	Lorain	Amherst, city of	390347B	do	Mar. 15, 1974 and Apr. 23, 1976.
Do	Washington	Belpre, city of	390567B	do	Apr. 5, 1974 and June 27, 1975.
Do	Cuyahoga	Bentleyville, village of	390682A	do	Feb. 7, 1975.
Do	Hamilton	Blue Ash, city of	390208A	do	Feb. 21, 1975.
Do	Greene	Spring Valley, village of	390196B	do	Nov. 16, 1973 and Apr. 9, 1976.
Do	Warren	Waynesville, village of	390565B	do	Nov. 9, 1973 and June 4, 1976.
Oklahoma	Rogers	Catoosa, city of	400185C	do	Sept. 6, 1974, Feb. 27, 1976, and Jan. 14, 1977.
Pennsylvania	Blair	Catharine, township of	420962B	do	Jan. 23, 1974 and May 28, 1976.
Texas	Dallas and Denton	Coppell, city of	480170B	do	Mar. 8, 1974 and June 4, 1976.
Do	Limestone	Mexia, city of	480442B	do	Mar. 15, 1974 and Apr. 2, 1976.
Do	Smith	Tyler, city of	480571A	do	Jan. 10, 1975.
Washington	Clallam	Port Angeles, city of	530023B	do	May 31, 1974 and Jan. 16, 1976.
Do	Spokane	Spokane, city of	530183A	do	May 24, 1974.
Do	Thurston	Tumwater, city of	530192B	do	Jan. 23, 1974 and Aug. 13, 1976.
Wisconsin	Winnebago	Omro, city of	550533A	do	Nov. 15, 1974.
Pennsylvania	Perry	Liverpool, township of	421953	Feb. 5, 1975, emergency, June 18, 1980, regular, June 18, 1980, suspended, Aug. 4, 1980, reinstated.	Apr. 4, 1975.
New York	Cattaraugus	Machias, town of	360084A	Aug. 5, 1980, emergency	Oct. 18, 1974 and Aug. 27, 1976.
Pennsylvania	Potter	Keating, township of	421981	do	Nov. 22, 1974.
Illinois	Cook	Country Club Hills, city of	170078	Dec. 10, 1974, emergency, July 16, 1980, regular, July 16, 1980, suspended, Aug. 5, 1980, reinstated.	Apr. 5, 1974, Feb. 14, 1975, and Apr. 9, 1976.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Do	do	Palos Heights, city of	170142C	July 27, 1973, emergency, July 16, 1980, regular, July 16, 1980, suspended, Aug. 5, 1980, reinstated.	Mar. 22, 1974, Mar. 19, 1976, and July 7, 1978.
Do	do	Stone Park, village of	170165	Apr. 28, 1975, emergency, July 16, 1980, regular, July 16, 1980, suspended, Aug. 5, 1980, reinstated.	Mar. 22, 1974 and Sept. 12, 1975.
Minnesota	McLeod	Glencoe, city of	270263B	June 18, 1974, emergency, July 2, 1980, regular, July 2, 1980, suspended, Aug. 6, 1980, reinstated.	June 7, 1974 and Aug. 13, 1976.
Do	Dakota	South St. Paul, city of	270114	May 30, 1974, emergency, June 18, 1980, regular, June 18, 1980, suspended, Aug. 8, 1980, reinstated.	May 10, 1974 and July 30, 1976.
Iowa	Bremer	Unincorporated areas	190647A	Aug. 12, 1980, emergency.	May 10, 1977.
Michigan	Genesee	Clio, city of	260667A	Aug. 14, 1980, emergency.	Aug. 5, 1977.
Illinois	Cook	Olympia Fields, village of	170139B	Aug. 7, 1974, emergency, Aug. 1, 1980, regular, Aug. 1, 1980, suspended, Aug. 15, 1980, reinstated.	May 3, 1974 and Apr. 25, 1975.
Texas	Kinney	Unincorporated areas	481176A	Aug. 13, 1980, emergency.	Jan. 10, 1978.
Alabama	Sumter	Livingston, city of	0101958	Aug. 15, 1980, suspension withdrawal.	May 31, 1974 and July 2, 1976.
Arkansas	Jefferson	Altheimer, city of	050107B	do	May 10, 1974 and June 4, 1976.
Arizona	Maricopa	Tempe, city of	040054B	do	June 28, 1974 and Sept. 5, 1975.
California	Stanislaus	Modesto, city of	060387B	do	July 19, 1974 and Aug. 15, 1975.
Do	Santa Clara	Mountain View, city of	060347B	do	June 14, 1975 and Sept. 19, 1975.
Do	Contra Costa	Pinole, city of	060032B	do	May 24, 1974 and Oct. 10, 1975.
Do	do	Pittsburgh, city of	060033B	do	June 21, 1974 and Nov. 28, 1975.
Illinois	Cook	Elmwood Park, village of	170069A	do	Nov. 1, 1974.
Do	Lake	Riverwoods, village of	170367B	do	Mar. 1, 1974 and Jan. 30, 1976.
Iowa	Wapello	Ottumwa, city of	190272B	do	Mar. 15, 1974 and July 2, 1976.
Kansas	Butler	Augusta, city of	200038B	do	Feb. 1, 1974 and Apr. 23, 1976.
Do	Sedgwick	Clearwater, city of	200482A	do	Sept. 5, 1975.
Do	Johnson	Unincorporated areas	200159B	do	Sept. 6, 1977.
Do	Sedgwick	Kechi, city of	200429A	do	Apr. 23, 1976.
Do	Leavenworth	Lansing, city of	200189B	do	Aug. 23, 1974 and Nov. 28, 1975.
Kentucky	Campbell	Dayton, city of	210037B	do	Feb. 1, 1974 and Mar. 5, 1976.
Louisiana	Lafourche	Lockport, town of	220254B	do	Jan. 10, 1975 and Dec. 19, 1975.
Michigan	Wayne	Wayne, city of	260245B	do	May 31, 1974 and Oct. 31, 1975.
Mississippi	Rankin	Florence, town of	280144B	do	Aug. 23, 1974 and Jan. 30, 1976.
Do	Simpson	Magee, city of	280158A	do	Aug. 1, 1975.
Nebraska	Cumming	West Point, city of	310048B	do	Jan. 9, 1974 and Aug. 29, 1975.
New Hampshire	Belknap	Laconia, city of	330005B	do	June 28, 1974 and Nov. 19, 1976.
New York	Westchester	Greenburgh, town of	360911B	do	June 21, 1974 and July 30, 1976.
Do	Steuben	Savona, village of	361049B	do	May 17, 1974 and June 4, 1976.
Do	Westchester	Yonkers, city of	360936B	do	Jan. 9, 1974 and Oct. 6, 1976.
Ohio	Franklin	Grandview Heights, city of	390172B	do	May 17, 1974 and Aug. 20, 1976.
Do	Washington	Macksburg, village of	390571B	do	Aug. 23, 1974 and May 21, 1976.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Pennsylvania	Perry	Buffalo, township of	421948	do	Jan. 31, 1975.
Do	Luzerne	Dorrance, township of	421826A	do	Jan. 24, 1975.
Do	Allegheny	East Deer, township of	421061B	do	Sept. 20, 1974 and May 14, 1976.
Do	Tioga	Lawrenceville, borough of	420821C	do	Sept. 14, 1973, Sept. 24, 1976, and Dec. 31, 1976.
Do	Lycoming	McKenry, township of	420975A	do	Oct. 15, 1976.
Do	York	Monaghan, township of	422225B	do	Nov. 8, 1974 and Apr. 16, 1976.
Do	Lackawanna	Scranton, city of	420538B	do	Jan. 23, 1974 and May 28, 1976.
Do	Allegheny	Tarentum, borough of	420076B	do	Feb. 15, 1974 and May 14, 1976.
Do	Lackawanna	Taylor, borough of	420539B	do	Feb. 1, 1974 and May 7, 1976.
Do	Tioga	Tioga, township of	420828B	do	Feb. 8, 1974 and Jan. 7, 1977.
Do	Allegheny	West Homestead, borough of	420084B	do	Dec. 28, 1973 and June 18, 1976.
Vermont	Orange	Chelsea, town of	500070B	do	June 28, 1974 and Dec. 3, 1976.
Do	Grand Isle	North Hero, town of	500225A	do	Jan. 10, 1975.
Virginia	Montgomery	Christianburg, town of	510101B	do	May 31, 1974 and Apr. 25, 1975.
Do	Independent City	Franklin, city of	510060C	do	Feb. 22, 1974, Dec. 27, 1974, and Apr. 2, 1976.
Wisconsin	Marathon	Athens, village of	550246B	do	May 31, 1974 and May 14, 1976.
Do	Dodge	Horicon, city of	550098B	do	Nov. 30, 1973 and Mar. 26, 1976.
Do	do	Hustisford, village of	550557B	do	Nov. 30, 1973 and Sept. 12, 1975.
Do	Marathon	Marathon City, village of	550252B	do	Nov. 30, 1973 and May 21, 1976.
Do	Fond du Lac	Ripon, city of	550140B	do	May 24, 1974 and May 28, 1976.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: August 19, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-26628 Filed 9-3-80; 8:45 am]

BILLING CODE 6718-03-M

COMMUNITY SERVICES ADMINISTRATION

45 CFR Part 1061

Funding Requirements for Fiscal Year 1981 Crisis Intervention Program

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration is filing a final rule on the FY'81 Crisis Intervention Program. This rule details how these energy funds will be allocated and sets forth project application and post grant requirements. This rule implements Section 306(b)(1)(B) of the Crude Oil Windfall Profit Tax Act of 1980 which provides funding for this energy-related crisis assistance program.

DATES: Effective Date: This rule becomes effective October 6, 1980. Comment Date: CSA will consider comments on this rule received by September 29, 1980 and will amend the rule to reflect comments if warranted.

ADDRESS: Comments should be sent to the contact persons and address listed below.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara J. Crawford, Mr. Wallace W. Lumpkin, Community Services Administration, Crisis Intervention Program, 2000 K Street, N.W., Suite 350, Washington, D.C. 20006, (202) 254–9833.

SUPPLEMENTARY INFORMATION: CSA is waiving the formal 60 day minimum comment period for this significant rule as required by Executive Order 12044, Improving Government regulations. CSA finds that a 60 day comment period for this rule is contrary to the public interest and impracticable since complying with this requirement would make it impossible to publish a final rule prior to the onset of winter.

Title III of the Crude Oil Windfall Profit Tax Act of 1980 (PL 96–223), known as the "Home Energy Assistance Act of 1980", authorizes grants to the states to "provide assistance to eligible households to offset the rising costs of home energy that are excessive in relation to household income". Responsibility for federal administration of the Low-Income Energy Assistance Program (LIEAP) funds which will go to the States is assigned to the Department of Health and Human Services (HHS). Section 306(b)(1)(B) of the Crude Oil Windfall Profit Tax Act also directs the Secretary of HHS to "transfer to the Director of the Community Services Administration $100,000,000 . . . for carrying out energy crisis related

activities under Section 222(a)(5) of the Economic Opportunity Act of 1964".

Based upon the legislative history for the Act, the CSA program was to be designed to complement rather than supplement the HHS funded LIEAP. Inasmuch as the provisions of the LIEAP are directed primarily towards the payment of utility/fuel bills, CSA has designed its program to fill this vacuum in assistance.

The goals of the CSA Crisis Intervention Program (CIP) are therefore (1) to assure that the LIEAP and other energy-related support networks (e.g. DOE's weatherization projects, public/private funded energy assistance programs etc.) are responsive to the energy needs of the poor; (2) to provide only those crisis intervention activities not readily available through the LIEAP and other support networks; (3) to undertake activities which will lessen the impact of the high cost of energy on the poor; and (4) to develop a local planning capability involving community resources to deal with both short and long range energy issues affecting the poor in the specific community.

Prior to the design of this program, CSA and representatives of Community Action Agencies participated with HHS in the development of the regulations governing the funding of LIEAP. This participation provided us with the necessary knowledge to design a program which would truly complement LIEAP by responding to the energy needs of the poor at the local level.

CSA expects to operate this program through its network of Community Action Agencies and other existing CSA grantees which will provide national coverage. In addition, Indians will be served by tribal governments or non-profit organizations. Migrants and Seasonal Farmworkers will be served by CSA's Migrant Conduit system.

By the provisions of the Crude Oil Windfall Profit Tax Act, CSA is required to allocate funds among the States according to a legislatively prescribed formula. Funds then will be distributed within States on a formula basis to be determined by CSA once Congress appropriates funds for this program. At that time, applicants requesting funds under this program will be informed of the total amount of funds available for a particular community by the appropriate CSA Regional Director.

The program will serve the needy poor with total household incomes at or below 125% of the CSA poverty guidelines. Although CSA has not established any participant priorities, grantees are encouraged to continue to give priority to the elderly and the handicapped.

CSA has reserved the procedures to be followed in submitting applications to the State Clearinghouses for future publication. We have requested a modification of the clearinghouse procedures from the Office of Management and Budget. The published procedures will reflect their response. In the interim applicants are advised to submit their Notice of Intent to apply for funds under this program to the appropriate clearinghouse(s).

(Sec. 602, 78 Stat. 530; 42 U.S.C. 2942)

Michael T. Blouin,

Acting Director.

45 CFR Part 1061 is amended to add the following new Subpart 1061-51

Subpart 1061-51—Funding Requirements for Fiscal Year 1981 Crisis Intervention Program

Sec.

Authority: Sec. 602, 78 Stat. 530; 42 U.S.C. 2942.

§ 1061.51-1 Applicability.

This subpart is applicable to grants made under section 222(a)(5) of the Economic Opportunity Act 1964 as amended, for energy Crisis Intervention activities if the assistance is administered by the Community Services Administration.

§ 1061.51-2 References.

(a) Section 222(a)(5) of the Economic Opportunity Act of 1964, as amended.

(b) 45 CFR 1067.40, Applying for a Grant Under Title II, Sections 221, 222(a) and 231 of the Economic Opportunity Act.

(c) 45 CFR 1050.50, Cost Sharing and Matching.

(d) 45 CFR 1068.20, Non-Federal Share Requirements for Title II, Sections 221, 222(a) and 231 Programs.

(e) 45 CFR 1067.4, Standards for Evaluating the Effectiveness of CSA Adminstered Programs and Projects.

(f) 45 CFR 1067.7, Due Process Rights For Applicants Denied Benefits Under CSA Funded Programs.

(g) 45 CFR 1050.80, Monitoring and Reporting Performance.

(h) 45 CFR 1050.70, Financial Reporting Requirement.

(i) 45 CFR 1050.160, Procurement Standards.

§ 1061.51-3 Definitions.

(a) "Household" means any individual or group of individuals who are living together as one economic unit and for whom residential energy is customarily purchased in common, or who make undesignated payments for energy in the form of rent.

(b) "Head of Household" means the household designate and major income earner of the household.

(c) "Elderly" means persons who are sixty years of age or older.

(d) "Seasonal Farmworker" shall mean a person who during the preceding twelve months worked at least 25 days in farm work and worked less than 150 consecutive days at any one establishment. "Seasonal Farmworker" includes both migratory and nonmigratory individuals, but does not include nonmigratory individuals who are full-time students or supervisors or other farmworkers.

(e) "Migrant Farmworker" shall mean a seasonal farmworker who performs or has performed during the preceding twelve months agricultural labor which requires travel such that the worker is unable to return to his/her domicile (accepted place of residence) within the same day.

(f) "Indian" means any individual who is a member or a descendent of a member of a North American tribe, band, or other organized group of native people who are indigenous to the continental United States or who otherwise have a special relationship with the United States through treaty, agreement, or some other form of recognition. This includes any individual who claims to be an Indian and who is regarded as such by the Indian community of which he or she claims to be a part. This definition also includes Alaskan Natives.

(g) "Tribe" or "Indian Tribe" means a distinct community of Indians that exercises powers of self-government and are so recognized by Federal and/or State statute.

(h) "Handicapped" means those individuals who meet the definition of "handicapped" individuals as defined in section 7(6) of the Rehabilitation Act of 1973, as amended, that is "any person who (1) has a physical or mental impairment which substantially limits one or more major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment"

or who are under a disability as defined in section 1614(3)(A) or 223(d)(1) of the Social Security Act or in section 102(7) of the Developmental Disabilities Services and Facilities Act of 1970, as amended, or who are receiving benefits under Chapter 11 or 15 of Title 38, United States Code.

(i) "SSI Benefits" means Supplemental Security Income benefits under Title XVI of the Social Security Act, including mandatory and optional payments that the Department of Health and Human Services administers for a State under subpart T of 20 CFR Part 416 to supplement Federal benefits, but excluding benefits:

(1) Paid under 20 CFR 416.231 because the beneficiary is living in a Medicaid institution and Medicaid is paying more than 50 percent of the cost of care;

(2) Reduced by one-third under 20 CFR 216.1125(b) because the beneficiary is living in another person's household and is receiving both support and maintenance (food and shelter) from that person and is not paying his pro rata share of food and shelter expenses; or

(3) Paid to a beneficiary who is:

(i) A child for SSI purposes under 20 CFR 416.1050; and

(ii) Living with a parent or with the spouse of a parent.

§ 1061.51.4 Background.

(a) Title III of the Crude Oil Windfall Profit Tax Act of 1980 (PL 96-223), known as the "Home Energy Assistance Act of 1980", authorizes grants to the states to "provide assistance to eligible households to offset the rising costs of home energy that are excessive in relation to household income." Responsibility for Federal Administration of the Low-Income Energy Assistance Program (LIEAP) funds which will go to the States is assigned to the Department of Health and Human Services (HHS). Section 306(b)(1)(B) of the Crude Oil Windfall Profit Tax Act also directs the Secretary of HHS to "transfer to the Director of the Community Services Administration $100,000,000 . . . for carrying out energy crisis related activities under Section 222(a)(5) of the Economic Opportunity Act of 1964".

(b) Eighty percent of the funds received by CSA will be allocated among the States according to a formula to be included in the Crude Oil Windfall Profit Tax Act of 1980. These funds will then be distributed within States by CSA's ten regional offices to eligible applicants as defined in this rule.

(c) The remaining 20% shall be used by CSA to respond to weather-related emergencies during the operation of the CIP, to establish set-asides to serve Indians and Migrant and Seasonal Farmworkers, to provide training and technical assistance to grantees, to evaluate the program, and to support its administration of the program.

§ 1061.51.5 Purpose.

This rule details the procedures CSA will utilize to implement the FY'81 Crisis Intervention Program, and outlines the policies and funding criteria which will govern the expenditure of funds allocated under this program.

§ 1061.51-6 Policy.

(a) In keeping with Congressional Intent, the CSA Crisis Intervention Program (CIP) is designed to *complement* and not supplement HHS's Low-Income Energy Assistance Program (LIEAP). The goals of the CIP are therefore (1) to assure that the LIEAP and other energy-related support networks (e.g. DOE's weatherization projects, public/private funded energy assistance programs etc.) are responsive to the energy needs of the poor; (2) to provide only those crisis intervention activities not readily available through the LIEAP and other support networks; (3) to undertake activities which will lessen the impact of the high cost of energy on the poor; and (4) to develop a local planning capability involving commmunity resources to deal with both short and long range energy issues affecting the poor in the specific community. This program is not an income transfer program. This program does not entitle any person or household to a certain amount or form of assistance. This program is not to be considered as an alternative to those households which have access to direct assistance through other networks. This program should not duplicate assistance available to an eligible household by any public or private entity. The only exception is the payment of utility/fuel bills for an eligible household on a one-time crisis intervention basis (i.e. to prevent hardship or danger to health) and only as a last resort after negotiations with utility/fuel vendors and with existing energy assistance program operators have failed.

§ 1061.51-7 Who can apply for funds.

(a) All Community Action Agencies (CAA's) are eligible to apply for CIP funds to undertake crisis intervention activities in their service areas.

(b) CSA Regional Directors will identify existing CSA grantees to serve those areas of a state not covered by an existing CAA.

(c) Indian Tribes are also eligible to apply for funds to undertake crisis intervention activities for their service areas. If a CSA Regional Director identifies a significant population of Indians that is not self-governed but which would not be able to receive services outlined in this rule due to geographical isolation or other significant factors, he/she may request a waiver from Headquarters to fund this Indian group directly. Waivers will be reviewed on a case by case basis.

(d) The Migrant and Seasonal Farmworker organizations designated as CSA conduits (see Appendix A for names and addresses of organizations) are eligible to apply for funds to undertake crisis intervention activities for Migrant and Seasonal Farmworkers.

§ 1061.51-8 What can these funds be used for.

(a) All work programs proposing to undertake crisis intervention activities must include, at a minimum, activities outlined in paragraphs (a)(1)-(4) of this section:

(1) *Access*—Grantees must undertake activities to insure that all poor and near poor households are provided equal access to federal, state or other energy crisis assistance programs. Such activities might include but are not limited to the representation of the interests of the poor with utility/fuel vendors, at energy policy and rate structure hearings, with the program operators of the Low Income Energy Assistance Program (LIEAP), and with the program operators of the Department of Energy's weatherization program.

(2) *Community Mobilization Activites*—Mobilization and organization of community resources to respond to crisis needs within the community.

(i) *Mobilization of Organizations*—Such activities might include but are not limited to coordination of religious, social service and other community based organizations to become aware and involved in the energy issues affecting the poor and soliciting their help in ameliorating their effects.

(ii) *Mobilization of Goods and Services*—Such activities might include but are not limited to securing goods, services, and temporary relocation centers from community based merchants, religious, social service and other organizations to respond to the energy needs of the poor during individual emergencies and periods of crises.

(3) *Direct Services*—The provision of direct services in the form of goods or services are to be provided only when

these direct services are not available from other sources. These services might include but are not limited to providing blankets, warm clothing, temporary shelter, energy-related repairs to housing such as patching a roof or replacing a broken window, furnace repairs and space heaters. Grantees are also permitted to make payments of utility/fuel bills as a one-time form of crisis assistance to a household and only as a last resort after negotiations with utility/fuel vendors and other energy crisis assistance operators (e.g. LIEAP local program operator) have failed to resolve the household's crisis. In undertaking this activity, grantees must assure that reconnection of utility service or delivery of fuel actually occurs. Funds under this program shall not be used to weatherize houses.

(4) *Community Planning and Education*—such as but not limited to comprehensive energy-related planning to benefit the low-income populace of the area, the dissemination of energy conservation information, the conduct of energy conservation education programs and the provision of information on existing energy programs in the community (e.g., information and referral to the LIEAP).

(5) *Alternate Energy Sources*—such as but not limited to the installation of a woodburning stove, solar hot water heater, or a solar collector. This activity is being allowed since grantees may find, in some instances, that the best means of solving an individual household's energy problem is to utilize an alternate energy source.

§ 1061.51-9 Who can be served by this program.

(a) *Income Eligibility.* Households whose incomes total no more than 125 percent of the CSA Income Poverty Guidelines or whose heads receive SSI or AFDC payments are eligible for assistance. (See definition for SSI, 1061.51-3 [1].) No grantee may change these income eligibility guidelines. (See Appendix "B" for CSA Income Poverty Guidelines.)

(b) *Program Eligibility.* No assistance under this program is to be provided to households having access to direct assistance of the same type through other supportive networks, such as the Low-Income Energy Assistance Program, welfare, or other federally funded energy assistance programs, except in cases where the grantee can document that the other network cannot respond in an effective and timely manner to prevent a life threatening or health-related emergency situation.

(c) *Certification of Income Eligibility Required of Grantees.* Proof of income eligibility shall be required of each applicant. The period for determining eligibility will not be more than 12 months nor less than 90 days preceding the request for assistance. The determination of what constitutes income shall be based on the CSA Income Poverty Guidelines. In limited instances when proof of income is unavailable, an applicant must sign a declaration of income eligibility in order to receive assistance. In such cases, the local program operator must make a reasonable number of spot checks (no less than 10 percent) to verify income eligibility

(d) *Income Disregard.* Benefits made available under this program shall not be considered as income or resources of such household (of any member thereof) for any purposes under any federal or state law, including any law relating to taxation, public assistance or welfare program.

§ 1061.51-10 Level of assistance.

(a) The sum of all forms of assistance under this program made to and/or on behalf of any eligible household under this program may not exceed $400.

(1) The provision of direct services may not exceed a total of $150 for any eligible household.

(2) No alternate energy source can exceed a total sum of $400.

§ 1061.51-11 How to obtain funds.

(a) Applications for funds under this program, except for applications submitted by Migrant & Seasonal Farmworkers Conduits, must be submitted to the appropriate CSA Regional Office. (See Appendix "C".) Applications by the Migrant & Seasonal Farmworker Conduits must be submitted to the National Farmworker Desk. (See Appendix "D".)

(b) Applications must be received by CSA no later than close of business Friday, October 31, 1980.

(c) *Contents of Applications.*

(1) The following forms are required as part of the application package:

(i) CSA Form 419, Summary of Work Programs and Budget. This form must address all of the activities outlined under Section 1061.51-8 which the applicant is going to undertake. Each activity should be addressed separately with a breakdown for the level of funding to support each activity.

(ii) CAP Form 25, Program Account Budget.

(iii) CAP Form 25a, Program Account Budget Support Sheet.

(iv) SF 424, Federal Assistance.

(2) When delegating part or all of the work program, the applicant must also submit the following:

(i) CAP Form 85, Administering Funding Estimate.

(ii) CAP Form 87, Delegate Agency Basic Information.

(iii) CAP Form 11, Assistance of Compliance with Local Rights.

(d) *Clearinghouse Review Procedures.* [Reserved]

§1061-51-12 Project requirements.

(a) *Project Advisory Committee.*

(1) Each applicant shall establish a Project Advisory Committee (PAC). However, if the applicant has an existing PAC that is properly constituted, this PAC will satisfy this requirement.

(2) The role of the PAC should include but not be limited to the following activities:

(i) participate in the development of the proposed work program;

(ii) review and recommend for approval or disapproval of each request for the installation of an alternate energy source. The criteria to be used in the review should include the determination that the alternate energy source will:

(A) Lessen the impact of the high cost of energy on the household;

(B) Have a significant impact on the household's energy usage pattern; and

(C) Lessen the potential for future energy assistance subsidies.

(iii) Address the energy issues affecting the community as a whole and how they impact upon the poor;

(iv) make recommendations on the routine operation of the grantee's crisis intervention program; and

(v) participate in the development of applications for any future crisis intervention activities.

(3) Membership on the PAC should include at least 51% poor persons as well as representatives of the local governments and other resource agencies within the community served, a representative or representatives of the local public utility and local fuel dealers.

(b) *Crisis Intervention Program Coordinator.* A grantee must have at least one full-time energy crisis intervention program coordinator who will be responsible for assuring the implementation of the approved work program. Program funds may be used to support this position.

(c) *Non-Federal Share Requirements.* Since this is a program with crisis intervention activities, a matching share is not required. However, grantees are encouraged to mobilize additional resources to supplement and support this program.

(d) *Maintenance of Effort.* Assistance provided with funds made available under this program shall be in addition

to, and not in substitution for, services previously provided without federal assistance.

(e) *Procedures on Denial of Assistance.* The grantee is reminded that under the provisions of 45 CFR 1067.7 they are required to have procedures for the review of the partial or complete denial of assistance to any household or individual.

§1061.51-13 Post funding requirements.

(a) *Financial Reporting.* Grantees shall follow normal procedures for submission of the SF-269 and SF-272 outlined in 45 CFR 1050 Subpart H.

(b) *Project Progress Review Reports.* Grantees shall also follow normal procedures for the submission of the Project Progress Review Report (CSA Form 440) outlined in 45 CFR 1050 Subpart I.

(c) *Audit Requirement.* The program including its contracted-out components will be audited at the time of the grantee's regularly scheduled CSA audit.

(d) *Procurement.* The procurement standards outlined in 45 CFR 1050.160 are applicable to this program.

(e) *Administrative Costs.* The grantee may expend up to 10% of the total grant for administrative costs. Where the grantee has contracted out performance of part or all of the work program, the grantee must provide a reasonable portion of these administrative funds to the program operator(s) to enable them to administer the program.

§ 1061.51-14 Termination of program.

No funds under this program may be obligated after September 30, 1981. For this program, "obligation" shall mean certification for assistance by the program operator of a specific eligible household.

Appendix A—Migrant Conduits

New England Farmworkers Council (Serving: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont) 6 Frost Street, Springfield, Massachusetts 01105, ECIP Coordinator: Jane Malone, phone: (413) 781-2145.

Rural New York (Serving: New Jersey, New York) 339 East Avenue, Suite 305, Rochester, New York 14604, ECIP Coordinator: Mary Hanson, phone: (716) 546-7180.

Farmworkers Corporation of New Jersey (Serving: Delaware, Maryland, Pennsylvania, Virginia, West Virginia) 1400 West Landes Avenue, Vineland, New Jersey 08360, ECIP Coordinator: Bernard Powell, phone (609) 691-7001.

Mississippi Delta Housing Corporation (Serving: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Louisiana) 432 Highway 82 East, P.O. Box 847, Indianola, Mississippi 28751, ECIP Coordinator: Clanton Beamon, phone: (601) 887-4852.

Minnesota Migrant Council (Serving: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin, South Dakota) P.O. Box 1231, St. Cloud, Minnesota, 56301 ECIP Coordinator: Rich Echola, phone: (612) 254-7010.

Coloneas Del Valle (Serving: Arkansas, New Mexico, Oklahoma, Texas) P.O. Box 907, San Juan, Texas 78759, ECIP Coordinator: Hector DeLeon, phone: (512) 781-9795.

ORO Development Corporation (Serving: Iowa, Kansas, Missouri, Nebraska) 1208 Kansas Avenue, Kansas City, Kansas 66105, ECIP Coordinator: Mark Marcano, phone: (913) 342-2121.

North Dakota Migrant Council (Serving: Colorado, Montana, North Dakota, Utah, Wyoming) P.O. Box Drawer X, Grand Forks, North Dakota 58201, ECIP Coordinator: Jerry Nagel, phone: (701) 775-5135.

Campesinos Unidos (Serving: Arizona, California, Nevada) P.O. Box 203, Brawley, California 92227, ECIP Coordinator: Jose Lopez, phone (714) 344-4500.

Idaho Migrant Council (Serving: Idaho, Oregon, Washington) 7155 Capitol Boulevard, Suite 406, Boise, Idaho 83706, ECIP Coordinator: Sam Byrd, phone: (208) 345-9761.

Appendix B—CSA Income Poverty Guidelines

§ 1060.2-1 Applicability.

This subpart applies to all grants financially assisted under Titles II, IV and VII of the Economic Opportunity Act of 1964, as amended, if such assist is administered by the Community Services Administration.

§ 1060.2-2 Policy.

(a) The attached income guidelines are to be used for all those CSA funded programs, whether administered by a grantee or delegate agency, which use CSA poverty income guidelines as admission standards. These guidelines do not supersede alternative standards of eligibility approved by CSA.

(b) The guidelines are also to be used in certain other instances where required by CSA as a definition of poverty, e.g., for purposes of data collection and for defining eligibility for allowances and reimbursements to board members. Agencies may wish to use these guidelines for other administrative and statistical purposes as appropriate.

(c) The attached guidelines are based upon Table 17 of the U.S. Bureau of the Census, *Current Population Reports,* Series P-60, No. 120, "Money Income and Poverty Status of Families and Persons in the United States: 1978" (Advance Report), U.S. Government Printing Office, Washington, D.C., November 1979; and Department of Labor Press Release USDL-80-46 of December 1979.

(d) The following definitions, from *"Current Population Reports,"* P-60, No. 91, Bureau of the Census, December 1973 have been adopted by CSA for use with the attached poverty guidelines.

(1) *Income.* Refers to total cash receipts before taxes from all sources. These include money wages and salaries before any deductions, but not including food or rent in lieu of wages. They include receipts from self-employment or from own farm or business after deductions for business or farm expenses. They include regular payments from public assistance, social security, unemployment and workman's compensation, strike benefits from union funds, veteran's benefits, training stipends, alimony, child support and military family allotments or other regular support from an absent family member or someone not living in the household; government employee pensions, private pensions and regular insurance or annuity payments; and income from dividends, interest, rents, royalties or income from estates and trusts. For eligibility purposes, income does not refer to the following money receipts: any assets drawn down as withdrawals from a bank, sale of property, house or car, tax refunds, gifts, one-time insurance payments or compensation for injury; also to be disregarded is non-cash income, such as the bonus value of food and fuel produced and consumed on farms and the imputed value of rent from owner-occupied farm or non-farm housing.

(2) *A Farm Residence.* Is defined as any dwelling on a place of 10 acres or more with $50 or more annual sales of farm products raised there; or any place less than 10 acres having product sales of $250 or more.

Attachment.—*1980 Community Services Administration Poverty Income Guidelines for all States Except Alaska and Hawaii*

Size of family unit	Nonfarm family	Farm family
1	$3,700	$3,250
2	5,010	4,280
3	6,230	5,310
4	7,450	6,340
5	8,670	7,370
6	9,890	8,400

For family units with more than 6 members, add $1,220 for each additional member in a nonfarm family and $1,030 for each additional member in a farm family.

Poverty Guidelines for Alaska

Size of family unit	Nonfarm family	Farm family
1	$4,760	$4,090
2	6,280	5,370
3	7,800	6,650
4	9,320	7,930
5	10,840	9,210
6	12,360	10,490

For family units with more than 6 members, add $1,520 for each additional member in a nonfarm family and $1,280 for each additional member in a farm family.

Poverty Guidelines for Hawaii

Size of family unit	Nonfarm family	Farm family
1	$4,370	$3,760
2	5,770	4,940
3	7,170	6,120
4	8,570	7,300
5	9,970	8,480
6	11,370	9,660

For family units with more than 6 members, add $1,400 for each additional member in a

nonfarm family and $1,180 for each additional member in a farm family.

1980 Community Services Administration Poverty Income Guidelines for all States Except Alaska and Hawaii

[125 percent of the poverty guidelines]

Size of family unit	Nonfarm family	Farm family
1	$4,738	$4,063
2	6,263	5,350
3	7,788	6,638
4	9,313	7,925
5	10,838	9,213
6	12,363	10,500

For family units with more than 6 members, add $1,525 for each additional member in a nonfarm family and $1,288 for each additional member in a farm family.

[125 percent of the poverty guidelines for Alaska]

Size of family unit	Nonfarm family	Farm family
1	$5,950	$5,113
2	7,850	6,713
3	9,750	8,313
4	11,650	9,913
5	13,550	11,513
6	15,450	13,113

For family units with more than 6 members, add $1,900 for each additional member in a nonfarm family and $1,600 for each additional member in a farm family.

[125 percent of the poverty guidelines for Hawaii]

Size of family unit	Nonfarm family	Farm family
1	$5,463	$4,700
2	7,213	6,175
3	8,963	7,650
4	10,713	9,125
5	12,463	10,600
6	14,213	12,075

For family units with more than 6 members, add $1,750 for each additional member in a nonfarm family and $1,475 for each additional member in a farm family.

Appendix C—CSA Regional Office Addresses

Mr. Ivan Ashley, Regional Director, CSA, Region I, E-400, John F. Kennedy Federal Building, Boston, Massachusetts 02203, Phone: (817) 223-4080/FTS-8-223-4080, Boston: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

Ms. Josephine P. Nieves, Regional Director, CSA, Region II, 26 Federal Plaza, 32nd Floor, New York, New York 10007, Phone: (212) 264-1900/FTS-8-264-1900 New York: New Jersey, New York, Puerto Rico, Virgin Island.

Dr. W. Astor Kirk, Regional Director, CSA, Region III, Old U.S. Courthouse, P.O. Box 160, 9th and Market Streets, Philadelphia, Pennsylvania 19105, Phone: (215) 597-1139/FTS-8-597-1139, Philadelphia: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.

Mr. William "Sonny" Walker, Regional Director, CSA, Region IV, 101 Marietta Street NW, Atlanta, Georgia 30303, Phone: (404) 221-2717/FTS-8-242-2717, Atlanta: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.

Mr. Glenwood Johnson, Regional Director, CSA, Region V, 300 South Wacker Drive, 24th Floor, Chicago, Illinois 60606, Phone: (312) 252-5562/FTS-8-353-5562, Chicago: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.

Mr. Ben T. Haney, Regional Director, CSA, Region VI, 1200 Main Street, Dallas, Texas 75202, Phone: (214) 767-6126/FTS-8-729-6126, Dallas: Arkansas, Louisana, New Mexico, Oklahoma, Texas.

Mr. Wayne Thomas, Regional Director, CSA, Region VII, 911 Walmut Street, Kansas City, Missouri 64106, Phone: (816) 374-3761/FTS-8-758-3761, Kansas City: Iowa, Kansas, Missouri, Nebraska.

Mr. David Vanderburgh, Regional Director, CSA, Region VIII, 1961 Stout Street, Federal Building, Denver, Colorado 80294 Phone: (303) 837-4767/FTS-8-327-4767, Denver: Colorado, Montana, North Dakota, South Dakota, Utah Wyoming.

Mr. Alphonse Rodriquez, Regional Director, CSA, Region IX, 450 Golden Gate Avenue, Box 36008 San Francisco, California 94102, Phone: (415) 556-5400/FTS-8-556-5400 San Francisco: Arizona, California, Hawaii, Nevada, Trust Territories.

Mr. N. Dean Morgan, Regional Director, CSA, Region X, 1321 Second Avenue, Seattle, Washington 98101, Phone: (206) 442-4910/FTS-8-399-4910 Seattle: Alaska, Idaho, Oregon, Washington.

Appendix D—CSA National Farmworkers Desk Address

Office of Farmworkers Programs, Attn: Mr. Eduardo Gutierrez, 1200 19th Street, N.W., Washington, D.C. 20506, Phone: (202) 254-5400.

[FR Doc. 80-27158 Filed 9-3-80; 8:45 am]
BILLING CODE 6315-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-38; RM-3191]

FM Broadcast Station in Big Rapids, Mich.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (report and order).

SUMMARY: This action assigns Channel 272A to Big Rapids, Michigan, as its second FM channel assignment in response to a petition filed by David C. Schaberg.

DATE: Effective October 2, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Big Rapids, Michigan), BC Docket No. 80-38, RM-3191.

Report and Order—Proceeding Terminated

Adopted: August 15, 1980.

Released: August 26, 1980.

1. The Commission has before it the *Notice of Proposed Rule Making,* adopted January 29, 1980, 45 FR 8673 (published February 8, 1980), proposing the assignment of FM Channel 272A to Big Rapids, Michigan, issued in response to a petition filed by David C. Schaberg ("petitioner") who restated his interest in the proposal. WBRN, Inc. ("WBRN"), licensee of Stations WBRN(AM) and WBRN-FM, Big Rapids, filed a reply in opposition to the proposal.

2. Big Rapids (pop. 11,995),[1] in Mecosta County (pop. 27,992) is approximately 245 kilometers (153 miles) northwest of Detroit, Michigan. Big Rapids is served locally by Stations WBRN(AM) (daytime-only), and WBRN-FM (Channel 265A).

3. In its opposition, WBRN alleges that petitioner failed to provide an alternate channel for assignments to Shelby, Michigan, a precluded community, as the *Notice* requested. Petitioner suggested three possible available channels. WBRN notes that site restrictions limit desirable assignment to Shelby, and the overall preclusion impact of the proposal would result in inequitable distribution of available frequencies.

4. We have carefully considered the proposal herein and we have determined that the assignment of Channel 272A to Big Rapids, Michigan, is warranted. While preclusion would result, there has been no interest shown at the affected communities. Without a demand elsewhere we are constrained from reserving the channel for future use where, as here, the assignment could provide an opportunity for a competitive local aural broadcast service for Big Rapids.

5. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, that

[1] Population figures are taken from the 1970 U.S. Census.

effective October 2, 1980, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended, for the city listed below, to read as follows:

City	Channel No.
Big Rapids, Michigan	265A, 272A

6. It is further ordered, that this proceeding is terminated.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-27083 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-26; RM-3332]

FM Broadcast Station in Ravenswood, W. Va.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (report and order).

SUMMARY: Action taken herein assigns a Class A channel to Ravenswood, West Virginia, in response to a petition filed by Rex Osborne. The channel could be used to provide a first full-time local broadcast service to Ravenswood.

EFFECTIVE DATE: October 3, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Ravenswood, West Virginia), BC Docket No. 80-26, RM-3332.

Report and Order—Proceeding Terminated

Adopted: August 19, 1980.

Released: August 26, 1980.

1. The Commission has under consideration the *Notice of Proposed Rule Making,* adopted January 22, 1980, 45 FR 6973, proposing the assignment of Channel 272A as a first FM assignment to Ravenswood, West Virginia. The *Notice* was issued in response to a petition filed by Rex Osborne ("petitioner"). Petitioner filed supporting comments reaffirming his intention to file for the channel, if assigned. No oppositions to the proposal have been received.

2. Ravenswood (pop. 2,240),[1] in Jackson County (pop. 20,903), is located approximately 39 kilometers (24 miles) southwest of Parkersburg, West Virginia. It is served locally by daytime-only AM Station WMOV.

3. Petitioner has submitted sufficient information which is persuasive as to Ravenswood's need for a first FM assignment.

4. The Canadian Government has given its concurrence to the proposed assignment of Channel 272A to Ravenswood, West Virginia.

5. The Commission believes it would be in the public interest to assign Channel 272A to Ravenswood, West Virginia. The channel could provide a first full-time local aural and FM broadcast service to the community. The assignment can be made in compliance with the minimum distance separation requirements.

5. Accordingly, it is ordered, that effective October 3, 1980, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended with respect to the community listed below, as follows:

City	Channel No.
Revenswood, West Virginia	272A.

6. Authority for the action taken herein appears in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

7. It is further ordered, that this proceeding is terminated.

8. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066,1082, 1083; (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-27084 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures are taken from the 1970 U.S. Census.

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

49 CFR Part 601

Line of Succession

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Final rule.

SUMMARY: The purpose of this document is to revise the sequence in which UMTA officials assume and perform the duties of the Administrator when he or she is absent or disable (line of succession). Under this revision, when the Administrator and Deputy Administrator are absent or disabled, the duties of the Administrator will be performed by the Executive Director (a recently created position). The remainder of the line of succession remains unchanged.

EFFECTIVE DATE: September 4, 1980.

FOR FURTHER INFORMATION CONTACT: Pamela M. Hollar, Office of the Administrator, (202) 426-4038.

SUPPLEMENTARY INFORMATION: Since this is a matter relating to agency management, under 5 U.S.C. 553, notice and comment are not required, and the rule may be made effective less than 30 days after publication.

Accordingly, Part 601 of Title 49 of the Code of Federal Regulations is amended by adding to § 601.4 a new paragraph (a-1) to read as follows:

§ 601.4 Responsibilities of the Administrator.

(a) * * *

(a-1) Executive Director.

* * * * *

(49 CFR 1.51)

Dated: August 21, 1980.

Theodore C. Lutz,

Administrator.

[FR Doc. 80-26096 Filed 9-3-80; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Final Frameworks for Late Season Migratory Bird Hunting Regulations.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes the outer limits for dates and times when shooting may begin and end, hunting areas,

season lengths, and the number of birds which may be taken and possessed for late season migratory bird hunting regulations for the 1980–81 season. These seasons commence on or after October 1, 1980, and include most of those for waterfowl. The Service annually prescribes hunting regulations frameworks to the States. The effects of this final rule are to facilitate the selection of hunting seasons by the States and to further the establishment of the late season migratory bird hunting regulations for the 1980–81 season.

In general, the frameworks for ducks are similar to those in effect last year. The Service is stabilizing these regulations as part of a cooperative program with Canada aimed at improving its understanding of factors other than annual hunting regulations on duck harvests and population dynamics. Other changes include removal of hunting area closures for redheads, separating limits for canvasbacks and redheads under conventional regulations, zoning changes or additions in several Atlantic and Mississippi Flyway States, including mergansers in the regular duck bag limit in the Pacific Flyway, and local or regional changes for some goose hunting areas, limits and seasons.

EFFECTIVE DATE: September 4, 1980.

ADDRESSES: Comments received on the proposed late season frameworks are available for public inspection during normal business hours in Room 525–B, Matomic Building, 1717 H Street, NW., Washington, D.C. Copies of the environmental assessment on proposed stabilization of hunting regulations are available from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. The Service's biological opinion resulting from its consultation under Section 7, Endangered Species Act, is available for public inspection in or available from the Office of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202–254–3207).

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended, authorizes and directs the Secretary of the Interior to determine when, to what extent and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported.

In the annual process of developing migratory game bird hunting regulations, a distinction is made between "early" and "late" season frameworks. Early seasons include those which open before October 1 while late seasons open on or after October 1. Regulations are developed independently for early and late seasons. The early season regulations cover mourning doves, white-winged doves, band-tailed pigeons, rails, gallinules, an early duck season in Iowa, woodcock, common snipe, sea ducks in the Atlantic Flyway, teal in September in the Central and Mississippi Flyways, sandhill cranes in North Dakota and South Dakota, doves in the Virgin Islands and Hawaii, all migratory game birds in Puerto Rico and Alaska, and some special falconry seasons. Late seasons include the general waterfowl seasons; special seasons for scaup and goldeneyes; extra scaup and blue-winged teal in regular seasons; most sandhill crane seasons in the Central Flyway; coots, gallinules, and snipe in the Pacific Flyway; and other special falconry seasons.

Certain general procedures are followed in developing regulations for both the early and the late seasons. Initial regulatory proposals are first announced in a Federal Register document in late February, and open to public comment. As additional information becomes available, and comments are received and considered for the initial proposals, one or more supplemental proposed rules are announced in the Federal Register. At the termination of comment periods and following a public hearing, the Service develops and publishes the proposed frameworks for times of seasons, season lengths, shooting hours, hunting areas, daily bag and possession limits, and other regulatory measures or options. Following another public comment period and after consideration of additional comments, the Service publishes in the Federal Register the final frameworks. Using these frameworks, State conservation agencies select hunting season dates and options. States may select more restrictive seasons and options than those offered in the Service's frameworks. The final regulations, reflected in amendments to Subpart K of 50 CFR 20, then appear in the Federal Register, taking effect upon publication.

The regulations schedule for this year was as follows. On February 29, 1980, the Service published for public comment in the Federal Register (45 FR 13630) proposals to amend 50 CFR 20, with a comment period ending May 16, 1980. All comments received were considered. The proposal dealt with establishment of seasons, limits and shooting hours for migratory birds under §§ 20.101 through 20.107 of Subpart K. On June 20, 1980, a public hearing was held in Washington, D.C., to review the status of mourning doves, woodcock, band-tailed pigeons, white-winged doves, and sandhill cranes. The meeting was announced in the Federal Register on February 29, 1980 (45 FR 13630). Proposed hunting season frameworks for these species were discussed plus those for common snipe; rails; gallinules; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; mourning doves in Hawaii; September teal seasons in the Mississippi and Central Flyways; an early duck season in Iowa; special sea duck seasons in the Atlantic Flyway; and falconry seasons. Statements or comments were invited.

On June 27, 1980, the Service published in the Federal Register (45 FR 43419) a second document in the series of proposed and final rulemaking documents dealing specifically with final frameworks for the 1980–81 season from which wildlife conservation agency officials in Alaska, Puerto Rico, and the Virgin Islands could select season dates for hunting certain migratory birds in their respective jurisdictions during the 1980–81 season.

On July 1, 1980, the Service published for public comment in the Federal Register (45 FR 44540) a third document in the series consisting of proposed frameworks for early season migratory bird hunting regulations and supplemental proposals for late season regulations arising from comments received or from new information. The comment period for proposed early season frameworks ended on July 12, 1980, and for late season proposals ended on August 23, 1980.

On July 22, 1980, the Service published in the Federal Register (45 FR 49061) a fourth document in the series dealing specifically with final frameworks for early season migratory game bird hunting regulations from which State wildlife agency officials selected season dates and daily bag and possession limits for the 1980–81 season.

On August 5, 1980, a public hearing was held in Washington, D.C., as announced in the Federal Register on February 29, 1980 (45 FR 13630) and July 1, 1980 (45 FR 44540) to review the status of waterfowl. Proposed population and harvest objectives and regulations frameworks were discussed, and

statements and comments were solicited and received from the public.

On August 13, 1980, the Service published for public comment in the Federal Register (45 FR 53982) a fifth document in the series consisting of proposed frameworks for late season migratory bird hunting regulations. The comment period for proposed late season frameworks ended August 23, 1980.

On August 21, 1980, the Service published in the Federal Register (45 FR 55960) a sixth document in the series dealing specifically with amending Subpart K of 50 CFR 20 to set hunting seasons and areas, shooting and hawking hours, and bag and possession limits for species subject to early hunting regulations. These regulations took effect immediately upon publication.

This final rulemaking document is the seventh in the series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with final regulations frameworks for 1980–81 late hunting seasons on certain migratory game birds.

Review of Public Comments and the Service's Response

Thirty-four public comments were received between publication of the comments summary in the Federal Register dated August 13, 1980 (45 FR 53982) and through August 25, 1980. Included are 20 comments from individuals singly and in groups of two or more, 10 from State conservation agencies, 2 from waterfowl flyway councils, and 2 from one organization. In some instances, the communications do not specifically mention the open comment period or regulatory process. However, because they were received or sent during the comment period and generally relate to migratory bird hunting regulations, they are treated as comments.

Twenty letters from individuals writing singly or in groups of two or more favored implementation of the Low Plains proposal in the eastern tier of the Central Flyway.

Response. The Low Plains proposal was briefly described in the Federal Register dated February 29, 1980 (at 45 FR 13642). The Service noted in the Federal Register dated July 1, 1980 (at 45 FR 44545) that the proposal was aimed primarily at increasing the harvest of mallards in the mid-continent area of the United States, an action felt to be inconsistent with present mallard population goals and harvest guidelines. It was further observed that a balanced program of reasonable mallard hunting opportunity among the four flyways, as developed over the past few years, existed and that further changes in hunting opportunity should be based on changes in the status of the populations involved. In the Federal Register dated August 13, 1980 (at 45 FR 53984), the Service noted that recently completed surveys of major production areas indicated that the numbers of breeding mallards had declined from 1979, and that deteriorating habitat conditions severely curtailed production to the extent that a reduced 1980 fall flight was anticipated. For these reasons, the Service recommended against adoption of the Low Plains proposal.

Four States commented on zoning, including those which had completed 3 years of experimental zoning studies and had submitted final evaluation reports. New York requested a change in the boundary separating its North and South Zones. West Virginia corrected the zone boundary description accompanying its request to initiate an experimental zoning study. Indiana had earlier requested a change in its zone boundary but subsequently requested that the boundary used during 1979–80 remain in effect this year. Michigan similarly requested a change in the boundary separating its North and South Zones.

Response. The Service concurs with these requests as they are consistent with criteria published in the Federal Register dated February 29, 1980 (at 45 FR 13637). Similarly, the final frameworks reflect corrections in zone boundaries which have been brought to the Service's attention. Earlier zoning comments and requests from other States were addressed in the Federal Register dated July 1, 1980 (45 FR 44540) and August 13, 1980 (45 FR 53982).

Three States commented on the proposed canvasback frameworks. Virginia reiterated its interest in a special season for canvasbacks during the last two weeks of the regular 1980–81 duck season, in which a daily bag limit of 4 drake canvasbacks would be allowed. Michigan and Wisconsin indicated their interests in removing certain canvasback closure areas which have been in effect for several years. They proposed that recent year canvasback use data be considered in determining which closures should be abolished or retained.

Response. The Service, in the Federal Register dated August 13, 1980 (at 45 FR 53983) indicated that it supports, in principle, a limited canvasback hunting season directed primarily at the harvest of drakes, to be conducted on a trial basis in designated areas of the Atlantic Flyway. However, the hunt should be initiated in a year when population levels and production are favorable. Recently completed surveys show that although the number of canvasbacks observed on the breeding grounds increased somewhat this spring, habitat conditions were such that little production occurred and a reduced fall flight is expected. With regard to the Michigan and Wisconsin requests, the Service believes that at this date there is insufficient time to review data on specific canvasback closure areas, and propose and implement changes for those where closures may no longer be necessary.

Wisconsin recommended modifications in certain Canada goose frameworks applicable to that State. In the Central and Horicon Zones, only one Canada goose was proposed in the daily and season bag, and in possession. A 50-day season was requested for 16 east-central counties, and if fewer than 100,000 geese are inventoried in the 16-county area by October 20, the season length in a described area approximating the eastern half of Wisconsin would be reduced to 50 days.

Response. The Service concurs in these recommendations which are consistent with the management plan for Mississippi Valley Population Canada geese. The changes are reflected in the final frameworks.

Comments were received from Defenders of Wildlife (Defenders) about hunter ability to distinguish between canvasbacks and redheads, especially during the pre-dawn shooting period; whether special scaup hunting regulations meet legal obligations of the Migratory Bird Treaty Act and the migratory bird treaty with Japan which includes a provision for "optimum numbers" of migratory birds; and an alleged conflict between zoning experiments and the proposed experimental stabilization of hunting regulations. Defenders opposed any liberalization of canvasback and redhead regulations because the species are still below their long-term population objectives. Defenders urged that the three species of mergansers be included in the regular duck bag in the Pacific Flyway, as proposed by the Pacific Flyway Council, but opposed removal of the 1-bird daily bag limit for hooded mergansers also proposed by the Pacific Flyway Council.

Defenders object to proposed hunting regulations for black ducks which include no change from 1979 on the grounds that the regulations do not adequately protect black ducks, and that data on which the proposed regulations

appear to be based were not available for public inspection.

Response. The Service has previously responded to many of Defenders' concerns. The matter of shooting hours was discussed in the FES issued in 1975, in the environmental assessment on shooting hours issued in 1976, and in numerous Federal Registers, including the following published this year: February 29 (at 45 FR 13634); July 1 (at 45 FR 44542); and August 13 (at 45 FR 53983). Concern about the status of scaups was discussed in the Federal Register dated July 1, 1980 (at 45 FR 44543). The final environmental assessment on stabilized regulations describes the relationship of this program to other hunting regulations. Experience has shown that zoning has resulted in no marked changes in duck harvests, and there is no evidence that it will affect the evaluation of stabilized regulations. Regarding separate regulations for canvasbacks and redheads, the Service notes that this was a management objective stated in the environmental assessment prepared on the two species in 1976. The status of the canvasback population has not changed significantly in recent years, and the Service plans to retain the closed areas which have been in effect. The redhead population has increased and the changes proposed for this species are deemed to be entirely appropriate and consistent with its status. The Service believes that removal of the hooded merganser restriction in the Pacific Flyway will have no effect on hunting pressure or harvest of this species. No such increases occurred in the Pacific Flyway when restrictive limits for wood ducks were removed.

The Service has previously responded in the Federal Register and in an environmental assessment to Defenders' concerns regarding black ducks. Earlier this year (at 45 FR 13635), the Service described the ongoing research program for black ducks, which would provide baseline data from banding before making regulatory changes. A black duck management plan is being developed by the Service and the Atlantic Flyway Council in cooperation with the Canadian Wildlife Service, the Mississippi Flyway Council, and States and Provinces in the range of the species to establish goals and objectives for the species, and to identify research and management needs.

Contrary to the assertion that data supporting the Service's black duck population estimates and status are unavailable for public review, the Service states that these technical data are indeed available to the public. These voluminous technical data and files are located at the nearby Patuxent Wildlife Research Center, Laurel, Maryland, where the Office of Migratory Bird Management's Branch of Surveys is located. Defenders' representatives have on several occasions visited the facility to review and discuss various migratory bird management and research programs and related data. Such an arrangement could have been made for the black duck information in question had such a request been made in a timely fashion.

Defenders expressed concern about the size of the black duck harvest in relation to hunter numbers. At least two important factors have affected harvest opportunity on black ducks in the United States. First, the number of hunters in Canada has doubled over the past 12 years. The result is that Canadian hunters now take more than half the annual black duck harvest. Moreover, in eastern Canada the success rate per hunter day has shown a steady increase over the past decade, suggesting an abundance of black ducks available to be harvested. Conversely, the U.S. harvest has declined proportionately and the success rate per hunter day for black ducks has declined. Basically, the total harvest has remained stable, but the distribution of that harvest has shifted northward. A second important factor affecting the harvest of black ducks, particularly in the United States, is the greatly increased numbers of wood ducks and mallards. Both are prized game birds, and they have replaced the black duck as more important ducks in the harvest, particularly in the Atlantic Flyway. Their abundance reduces the probabilities of black ducks being taken in the daily bag.

The Service notes that no changes in black duck hunting regulations frameworks are included in this final frameworks document, despite expectation of increased production and a slightly larger fall flight. Thus, it does not believe that the 1980–81 hunting regulations will be detrimental to the black duck population.

Comments from two flyway councils concern matters previously addressed in the Federal Register (August 13, 1980 at 45 FR 53982), or previously in this document and do not require additional responses here. Maine indicated its general agreement with the proposed late season frameworks. One individual erroneously concluded that the Service was planning to double the bag limit for ducks in the Mississippi Flyway, and expressed his opposition to such action.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council of Environmental Quality on June 6, 1975, and notice of availability was published in the Federal Register on June 13, 1975 (40 FR 25241). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement. In the Federal Register dated August 13, 1980 (at FR 53983) the Service announced that a draft environmental assessment on stabilized regulations for ducks was available for public review and comment. The final assessment is now available from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, telephone 202–254–3207.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act," and "by taking such action necessary to insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species * * * which is determined to be critical."

Consequently, the Service reviewed all regulations frameworks being contemplated this year for outside dates, season lengths, hours, areas, and limits within which States may select regulations subject to early seasons. As a result of intra-Service section 7 consultation, Acting Associate Director Harold J. O'Connor stated in a biological opinion dated July 14, 1980, "that your action, as proposed, is not likely to jeopardize the continued existence of the above listed species [Aleutian Canada goose, Everglade kite, bald eagle, American peregrine falcon, Arctic peregrine falcon, and whooping crane] and is not likely to result in the destruction or adverse modification of any designated Critical Habitat."

The proposed late season regulatory frameworks were likewise subjected to careful study to insure that they complied with section 7 of the Endangered Species Act. Special attention was again given the Aleutian Canada goose (*Branta canadensis leucopareia*), Everglade kite

(*Rostrhamus sociabilis plumbeus*), bald eagle (*Haliaeetus leucocephalus*), American peregrine falcon (*Falco peregrinus anatum*), Arctic peregrine falcon (*Falco peregrinus tundrius*), and whooping crane (*Grus americanus*) and designated Critical Habitat for the Everglade kite, American peregrine falcon, and whooping crane. As a result of intra-Service section 7 consultation, Acting Associate Director Harold J. O'Connor stated in a biological opinion dated July 14, 1980, "that your action, as proposed, is not likely to jeopardize the continued existence of the above listed species and is not likely to result in the destruction or adverse modification of any Critical Habitat."

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species and their habitats. Examples of such consideration include areas closed to dove and pigeon hunting for protection of the Puerto Rican plain pigeon and the Puerto Rican parrot, both of which are classified as endangered. Also, areas in Alaska and California are closed to Canada goose hunting for protection of the endangered Aleutian Canada goose.

The Service's biological opinions resulting from consultation under section 7 are considered public documents and are available for public inspection in the Office of Endangered Species and the Office of Migratory Bird Management, Department of the Interior.

Nontoxic Shot Regulations

On February 11, 1980, the Service published in the Federal Register (45 FR 9028) proposed rules describing nontoxic shot zones for waterfowl hunting seasons commencing in 1980. When eaten by waterfowl, spent lead pellets have a toxic effect. The nontoxic shot zones will reduce the number of deaths to waterfowl by reducing the availability of lead pellets in waterfowl feeding areas. The final regulations were published in the Federal Register on June 5, 1980 (45 FR 37847) under § 20.108 of 50 CFR and will also be summarized in waterfowl regulations to be published late this summer.

In 1980, shotshells loaded with toxic shot will not be permitted for waterfowl hunting in designated nontoxic shot zones (44 FR 2597). This regulation related only to 12-gauge shotshells in previous years but applies to all gauges of shotshells after August 31, 1980.

Authorship

The primary author of this final rule is Henry M. Reeves, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

Regulations Promulgation

The rulemaking process for migratory bird hunting, must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed rulemakings were published on February 29, July 1, and August 13, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that at the periods' close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the States would have insufficient time to select their season dates, shooting hours, and bag limits; to communicate those selections to the Service, and to establish and publicize the necessary regulations and procedures to implement their decisions. The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication (September 4, 1980).

Accordingly, the Service under the authority of the Migratory Bird Treaty Act of July 3, 1918, as amended, (40 Stat. 755; 16 U.S.C. 701–711), prescribes the final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing dates, and hunting areas, from which State conservation agency officials may select open season dates and other options. Upon receipt of these selections from State officials, the Service will publish in the Federal Register final rulemaking amending certain sections of Subpart K of 50 CFR Part 20 to reflect late seasons, limits and shooting hours for the contiguous United States for the 1980–81 season.

Exemption from Executive Order 12044 and 43 CFR Part 14

As discussed in the Federal Register dated February 29, 1980 (45 FR 13630) the Assistant Secretary for Fish and Wildlife and Parks has concluded that the ever decreasing time frames in the regulatory process are mandated by the statutory requirements under section 704 of the Migratory Bird Treaty Act and the Administrative Procedure Act. The regulatory process simply has no remaining flexibility in its timetable between the accumulation of critical summer survey data and the publication of the revised sets of proposed rulemaking. Compliance with the procedures for the development of significant rules and the preparation of a regulatory analysis established under Executive Order 12044 would simply not be possible if the fall hunting season deadlines were to be achieved. Consequently, although the rules establishing the annual migratory bird hunting regulations are significant, the Assistant Secretary for Fish and Wildlife and Parks has approved the exemption of these regulations from the procedures of Executive Order 12044 and 43 CFR Part 14 which is provided for in § 14.3(f).

Final Regulations Frameworks for 1980–81 Late Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved final frameworks for season lengths, shooting hours, bag and possession limits, and outside dates within which States may select seasons for hunting waterfowl, coots, and gallinules; cranes inparts of New Mexico, Texas, Colorado, Oklahoma, Montana, and Wyoming; and common snipe in the Pacific Flyway. Frameworks are summarized below. States may be more restrictive in selecting season regulations, but may not exceed the framework provisions.

General

States in the Pacific, Central and Mississippi Flyways may split their season for ducks or geese into two segments of equal or unequal lengths. States in the Atlantic Flyway may, in lieu of zoning, split their season for ducks or geese into two or three segments of equal or unequal lengths. Exceptions are noted in appropriate sections.

Shooting hours in all States, on all species, and for all seasons are ½ hour before sunrise until sunset.

States in the Mississippi and Central Flyways selecting neither a September teal season nor the point system may select an extra daily bag and possession limit of 2 and 4 blue-winged teal, respectively, for 9 consecutive days designated during the regular duck season. These extra limits are in addition to the regular duck bag and possession limits.

States in the Atlantic Flyway not selecting the point system may select an extra teal limit for 9 consecutive days during the regular duck season of no

more than 2 blue-winged teal or 2 green-winged teal or 1 of each daily and no more than 4 singly or in the aggregate in possession.

States in the Atlantic, Mississippi and Central Flyways may select a special scaup-only hunting season not to exceed 16 consecutive days, with daily bag and possession limits of 5 and 10 scaup, respectively, subject to the following conditions:

1. The season must fall between October 1, 1980, and January 31, 1981, all dates inclusive.

2. The season must fall outside the open season for any other ducks except sea ducks.

3. The season must be limited to areas mutually agreed upon between the State and the Service prior to September 1, 1980.

4. These areas must be described and delineated in State hunting regulations.

OR

As an alternative, States in the Atlantic, Mississippi, and Central Flyways, except those selecting a point system, may select an extra daily bag and possession limit of 2 and 4 scaup, respectively, during the regular duck hunting season, subject to conditions 3 and 4 listed above. These extra limits are in addition to the regular duck limits and apply during the entire regular duck season.

Selection of the point system for any State entirely within a flyway must be on a statewide basis, *except* if New York selects the point system, conventional regulations may be retained for the Long Island Area. New York may not select the point system within the Upstate zoning option, and Maine, Massachusetts, Connecticut, Pennsylvania, West Virginia and North Carolina may not select the point system pending completion of zoning studies.

States that did not select their rail, woodcock, snipe, gallinule, and sea duck seasons in July should do so at the time they make their waterfowl selections.

Frameworks for open seasons and season lengths, bag and possession limit options, and other special provisions are listed below by Flyway.

Atlantic Flyway

Between October 1, 1980, and January 20, 1981, States in this Flyway may select open seasons on ducks, coots, and mergansers of: (a) 50 days, with basic daily bag and possession limits of 4 and 8 ducks, respectively, of which no more than 2 in the daily bag and 4 in possession may be black ducks; or (b) 50 days, with basic daily bag and possession limits of 5 and 10 ducks, respectively, of which no more than 1 in the daily bag and 2 in possession may be black ducks.

Except in closed areas, the limit on canvasbacks is 1 canvasback daily and 1 in possession. The limit on redheads throughout the flyway is 2 daily, except that in areas open to canvasback harvest the daily bag limit is 2 redheads, or 1 redhead and 1 canvasback. The possession limit on redheads is twice the daily bag limit under conventional regulations. The canvasback possession limit is equal to the daily bag limit. Under the point system, canvasbacks (except in closed areas) count 100 points each and redheads flywaywide count 70 points each. Areas closed to canvasback hunting are:

New York—Upper Niagara River between the Peace Bridge at Buffalo, New York, and the Niagara Falls. All waters of Lake Cayuga.

New Jersey—Those portions of Monmouth County and Ocean County lying east of the Garden State Parkway.

Maryland, Virginia and North Carolina—Those portions of each State lying east of U.S. Highway 1.

Under conventional and point system options, the daily bag and possession limits may not include more than 2 and 4 wood ducks, respectively, except that Virginia, North Carolina, South Carolina, Georgia and Florida may split their regular hunting season so that a hunting season not to exceed 9 consecutive days occurs between October 1 and October 15. During this period under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the flyway in 1980 shall apply to wood ducks. Under the point system, wood ducks shall be 25 points. For other ducks, daily bag and possession limits shall be the same as established for the flyway under conventional or point system regulations. For those States using conventional regulations, the 9 consecutive days extra teal option may be selected concurrent with the early wood duck season option. This exception to the daily bag and possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

The daily bag limit on mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

The daily bag and possession limits of coots are 15 and 30, respectively.

The Lake Champlain Area of New York must follow the waterfowl seasons, daily bag and possession limits, and shooting hours selected by Vermont. This area includes that part of New York lying east and north of a boundary running south from the Canadian border along U.S. Highway 9 to New York Route 22 south of Keeseville, along New York Route 22 to South Bay, along and around the shoreline of South Bay to New York Route 22, along New York Route 22 to U.S. Highway 4 at Whitehall, and along U.S. Highway 4 to the Vermont border.

In lieu of a special scaup season, Vermont may, for the Lake Champlain Area, select a special scaup and goldeneye season not to exceed 16 consecutive days, with a daily bag limit of 3 scaup or 3 goldeneyes or 3 in the aggregate and a possession limit of 6 scaup or 6 goldeneyes or 6 in the aggregate, subject to the same provisions that apply to the special scaup season elsewhere.

New York may, for Long Island, select season dates and daily bag and possession limits which differ from those in the remainder of the State.

Upstate New York (excluding the Lake Champlain area) may be divided into three zones (West, North, South) on an experimental basis for the purpose of setting separate duck, coot and merganser seasons. Option (a) or (b) for seasons and bag limits is applicable to the zones in the Upstate area within the Flyway framework; only conventional regulations may be selected. Each zone will be permitted the full number of days offered under options (a) or (b). In addition, a 2-segment split season without penalty may be selected in each zone. The basic daily bag limit on ducks in each zone and the restrictions applicable to options (a) and (b) of the regular season for the Flyway also apply. Teal and scaup bonus bird options shall be applicable to the Upstate zones, but the 16-day special scaup season will not be allowed.

The zones are defined as follows:

The West Zone is that portion of Upstate New York lying west of a line commencing at the north shore of the Salmon River and its junction with Lake Ontario and extending easterly along the north shore of the Salmon River to its intersection with Interstate Highway 81, then southerly along Interstate Highway 81 to the Pennsylvania border.

The North and South Zones are bordered on the west by the boundary described above and are separated from each other as follows: starting at the intersection of Interstate Highway 81 and State Route 49 and extending easterly along State Route 49 to its junction with State Route 365 at Rome, then easterly along State Route 365 to its junction with State Route 28 at Trenton,

then easterly along State Route 28 to its junction with State Route 29 at Middleville, then easterly along State Route 29 to its intersection with Interstate Highway 87 at Saratoga Springs, then northerly along Interstate Highway 87 to its junction with State Route 9, then northerly along State Route 9 to its junction with State Route 149, then easterly along State Route 149 to its junction with State Route 4 at Fort Ann, then northerly along State Route 4 to its intersection with the New York/Vermont boundary.

Maine may implement its current zoned season program on an operational basis. Massachusetts, Connecticut, West Virginia, and North Carolina each may be divided into two zones on an experimental basis for the purpose of setting separate duck, coot and merganser seasons. Pennsylvania and New Jersey each may be divided into three zones for the same purpose. Option (a) or (b) for seasons and bag limits is applicable to the zones within the Flyway framework; only conventional regulations may be selected in Maine, Massachusetts, Connecticut, West Virginia and North Carolina. New Jersey must select the point system. Each zone will be permitted the full number of days offered under options (a) or (b). In addition, a two-segment split season without penalty may be selected. The basic daily bag limit on ducks in each zone and the restrictions applicable to options (a) and (b) of the regular reason for the Flyway also apply. Teal and scaup bonus bird options, and the 16-day special scaup season shall be allowed.

The zones are defined as follows:

Maine

North Zone—Game Management Zones 1, 2 and 3.

South Zone—Game Management Zones 4 through 8.

Massachusetts

Coastal Zone—Beginning at the New Hampshire-Massachusetts border, that portion of the State east and south of a boundary formed by Interstate 95, south to U.S. Route 1, south to Interstate 93, south to Route 3, south to U.S. Route 6, southwest to Route 28, northwest to Interstate 195, and west to the Rhode Island line.

Inland Zone—That portion of the State west and north of the above boundary.

Connecticut

Nort Zone—That portion of the State north of Interstate 95.

South Zone—That portion of the State south of Interstate 95.

Pennsylvania

Lake Erie Zone—The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle peninsula.

North Zone—That portion of the State north of I–80 from the New Jersey State line west to the junction of State Route 147, the north on State Route 147 to the junction of Route 220, the west and/or south on Route 220 to the juncition of I–80, then west on I–80 to its junction with the Allegheny River, and then north along the Allegheny River to the New York border. The Allegheny River is included in the North Zone.

South Zone—The remaining portion of the State.

New Jersey

North Zone—That portion of New Jersey west of the Garden State Parkway and north of a line starting at the Garden State Parkway and running west along Route 70 to the junction of Route 38, then west along Route 38 and Route 30.

South Zone—That portion of New Jersey west of the Garden State Parkway and south of a line starting at the Garden State Parkway and running west along Route 70 to the junction of Route 38 then west along Route 38 and Route 30.

Coastal Zone—That portion of New Jersey lying east of the Garden State Parkway from the New York State line to the Cape May Canal.

West Virginia

Allegheny Mountain Upland Zone (contained with the circumscribed boundaries below).

The north boundary is the State line adjacent to Pennsylvania and Maryland. The eastern boundary extends south along U.S. Route 220 through Keyser, West Virginia, to the intersection of U.S. Route 50, and follows U.S. Route 50 to the intersection with State Route 93. The boundary follows State Route 93 south to the intersection with State Route 42 and continues south on State Route 42 to Petersburg. At Petersburg, the boundary follows State Route 28 south to Minnehaha Springs, and then follows State Route 39 west to U.S. Route 219 and follows 219 south to the intersection of Interstate 64. The southern boundary follows I–64 west to the intersection with U.S. Route 60, and follows Route 60 west to the intersection of U.S. Route 19. The western boundary follows Route 19 north to the intersection of I–79, and follows I–79 north to the Pennsylvania State line.

Remainder of the State—That portion outside the above boundaries.

North Carolina

East Zone—That portion of the State east of U.S. Highway 1.

West Zone—That portion of the State west of U.S. Highway 1.

As an alternative to conventional bag limits for ducks, a 50-day season with a point-system bag limit may be selected by States in the Atlantic Flyway during the framwork dates prescribed. Point values for species and sexes taken are as follows: in Florida only, the fulvous tree duck counts 100 points each; in all States the canvasback counts 100 points each (except in closed areas); the female mallard, black duck, mottled duck, wood duck (except in Virginia, North Carolina, South Carolina, Georgia and Florida during the early wood duck season option), redhead and hooded merganser count 70 points each; the blue-winged teal, greenwinged teal, pintail, gadwall, wigeon, shoveler, scaup, sea ducks, and mergansers (except hooded) count 10 points each; the male mallard, the wood duck during the early wood duck season option in Virginia, North Carolina, South Carolina, Georgia and Florida, and all other species of ducks count 25 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

In any State in the Atlantic Flyway selecting both point-system regulations and a special sea duck season, sea ducks count 10 points each during the point-system season, but during any part of the regular sea duck season falling outside the point-system season, regular sea duck daily bag and possession limits of 7 and 14, respectively, apply.

Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the conventional limits.

Between October 1, 1980, and January 20, 1981, Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, West Virginia, Maryland, and Virginia (excluding those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17) may select 70-day seasons on Canada geese; the daily bag and possession limits are 3 and 6 geese, respectively. However, in the area comprised of New Jersey, Delaware, the Delmarva Peninsula portions of

Maryland and Viginia, and that portion of Pennsylvania lying east and south of a boundary beginning at Interstate Highway 83 at the Maryland border and extending north to Harrisburg, then east on U.S. Highway 22 to the New Jersey border, the Canada goose season length may be 90 days with the closing framework date extended to January 31, 1981. The daily bag limit within this area will be 4 birds with a possession limit of 8 birds. North Carolina and those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17 in Virginia may select 50-day seasons on Canada geese within the October 1, 1980, to January 20, 1981, framework; the daily bag and possession limits are 2 and 4 Canada geese, respectively. South Carolina may select a 50-day season on Canada geese within the October 1, 1980, to January 20, 1981, framework; the daily bag and possession limits are 1 and 2 Canada geese, respectively.

The season is closed on Canada geese in Florida and Georgia.

Between October 1, 1980, and January 31, 1981, States in the Atlantic Flyway may select 70-day seasons on snow geese (including blue geese); the daily bag and possession limits are 4 and 8 geese, respectively.

The season is closed on Atlantic brant.

Mississippi Flyway

Between October 4, 1980 and January 20, 1981, States in this Flyway may select concurrent 50-day seasons on ducks, coots, and mergansers, except that in Iowa the framework opening date is September 20 and in Mississippi the framework closing date is January 31. The daily bag limit for ducks is 5, and may include no more than 3 mallards, no more than 2 of which may be female mallards, 1 black duck, and 2 wood ducks (except as noted below). The possession limit is 10, including no more than 6 mallards, no more than 4 of which may be female mallards, 2 black ducks, and 4 wood ducks (except as noted below).

Except in closed areas, the conventional limit on canvasbacks and redheads is 1 daily and 2 in possession for each species. Under the point system, canvasbacks count 100 points each (except in closed areas) and redheads count 70 points each. Areas closed to canvasback hunting are:

Mississippi River—Entire river, both sides, from Alton Dam upstream to Prescott, Wisconsin, at confluence of St. Croix River.

Alabama—Baldwin and Mobile Counties.

Louisiana—Caddo, St. Charles, and St. Mary Parishes; that portion of Ward 1 formerly designated as Ward 6 of St. Martin Parish; and Catahoula Lake in LaSalle and Rapides Parishes.

Michigan—Arenac, Bay, Huron, Macomb, Monroe, St. Clair, Tuscola, and Wayne Counties, and those adjacent waters of Saginaw Bay south of a line extending from Point au Gres in Sec. 6, T18N, R7E (Arenac County) to Sand Point in Sec. 11, T17N, R9E (Huron County), the St. Clair River, Lake St. Clair, the Detroit River and Lake Erie, under jurisdiction of the State of Michigan.

Minnesota—Douglas, Mahnomen, Polk, Pope and Sibley Counties. Where the county line of any of the above counties crosses any portion of a lake, that entire lake is closed. In addition, all land in Sec. 13, T130N, R31W (i.e., land between Lake Christina and Pelican Lake) is closed.

Ohio—Land and water areas comprising Erie, Ottawa and Sandusky Counties.

Tennessee—Kentucky Lake lying north of Interstate Highway 40.

Wisconsin—In the Mississippi River Zone, all that part of Wisconsin west of the Burlington-Northern Railroad in Grant, Crawford, Vernon, LaCrosse, Trempealeau, Buffalo, Pepin and Pierce Counties. Also, the following lakes and waters, including a strip of land 100 yards wide adjacent to the shorelines thereof: Lake Poygan in Winnebago and Waushara Counties and Lakes Winneconne and Butte des Morts, including the connecting waters thereof, in Winnebago County.

The daily bag limit on mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

The daily bag and possession limits on coots are 15 and 30, respectively.

As an alternative to conventional bag limits for ducks, a 50-day season with point-system bag and possession limits may be selected by States in the Mississippi Flyway during the framework dates prescribed. Point values for species and sexes taken are as follows: except in closed areas, the canvasback counts 100 points; the redhead, female mallard, wood duck (except as noted below), black duck and hooded merganser count 70 points each; the pintail, blue-winged teal, cinnamon teal, wigeon, gadwall, shoveler, scaup, green-winged teal and merganser (except hooded merganser) count 10 points each; the male mallard and all other species of ducks cout 25 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the conventional limits.

Kentucky, Arkansas, Tennessee, Louisiana, Mississippi and Alabama may split their regular duck hunting seasons in such a way that a hunting season not to exceed 9 consecutive days may occur between October 4 and October 15. During this period, under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the Flyway shall apply to wood ducks, and under the point system, the point value for wood ducks shall be 25 points. For other species of ducks, daily bag and possession limits shall be the same as established for the Flyway under conventional or point system regulations. In addition, the extra blue-winged teal option available to States in this Flyway that select conventional regulations and do not have a September teal season may be selected during this period. This exception to the daily bag and possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

In that portion of Louisiana west of a boundary beginning at the Arkansas-Louisiana border on Louisiana Highway 3; then south along Louisiana Highway 3 to Shreveport; then east along Interstate 20 to Minden; then south along Louisiana Highway 7 to Ringgold; then east along Louisiana Highway 4 to Jonesboro; then south along U.S. Highway 167 to Lafayette; then southeast along U.S. Highway 90 to Houma; then south along the Houma Navigation Channel to the Gulf of Mexico through Cat Island Pass—the season on ducks, coots and mergansers may extend 5 additional days, provided that the season opens no later than November 1, 1980. If the 5-day extension is selected, and if point-system regulations are selected for the State, point values will be the same as for the rest of the State.

The waterfowl seasons, limits, and shooting hours in the Pymatuning Reservoir area of Ohio will be the same as those slected by Pennsylvania. The area includes Pymatuning Reservoir and that part of Ohio bounded on the north by County Road 306 known as Woodward Road, on the west by Pymatuning Lake Road, and on the south by U.S. Highway 322.

Michigan, Illinois, Indiana, Ohio, Missouri, Alabama and Tennessee may select hunting seasons on ducks, coots and mergansers by zones described as follows:

Michigan:

North Zone—That portion of the State north of State Highway 55.

South Zone—That portion of the State south of State Highway 55.

Michigan may split its season in the South Zone into two segments.

Illinois:

North Zone—That portion of the State north of a line running east from the Iowa border along U.S. Highway 34 to I–74, north along I–74 to I–80, then east along I–80 to the Indiana border.

Central Zone—That portion of the State between the North and South Zone boundaries.

South Zone—That portion of the State south of a line running east from the Missouri border along Illinois Highway 150 to Illinois Highway 4, north along Illinois Highway 4 to Illinois Highway 15, east along Illinois Highway 15 to I–57, north along I–57 to I–70, then east along I–70 to the Indiana border.

Indiana:

North Zone—That portion of Indiana north of State Highway 18.

South Zone—The remainder of Indiana.

Ohio:

North Zone—The counties of Darke, Miami, Clark, Champaign, Union, Delaware, Licking, Muskingum, Guernesy, Harrison and Jefferson and all counties north thereof. In addition, the North Zone also includes that portion of the Buckeye Lake area in Fairfield and Perry Counties bounded on the west by State Highway 37, on the south by State Highay 204, and on the east by State Highay 13.

South Zone—The remainder of Ohio.

Ohio may split its season in each zone into two segments.

Missouri:

North Zone—That portion of Missouri north of a line running east from the Kansas border along U.S. Highway 54 to U.S. Highway 65, south along U.S. Highway 65 to State Highway 32, east along State Highway 32 to State Highway 72, east along State Highway 72 to State Highway 34, then east along State Highway 34 to the Illinois border.

South Zone—The remainder of Missouri.

Missouri may split its season in each zone into two segments.

Alabama:

South Zone—Mobile and Baldwin Counties.

North Zone—The remainder of Alabama.

Tennessee:

Reelfoot Zone—Lake and Obion Counties, or a designated portion of that area.

State Zone—The remainder of Tennessee.

Within each State: (1) the same bag limit option must be selected for both zones; and (2) if a special scaup season is selected for a zone, it shall not begin until after the regular season closing date in that zone.

The waterfowl seasons, limits, and shooting hours in the lower St. Francis River area of Arkansas and Missouri shall be the same as those selected by Missouri. The area is defined as that part of the St. Francis River south of U.S. Highway 62 that is the boundary between Arkansas and Missouri and all sloughs and chutes (but not tributaries) connected to it.

Between October 4, 1980, and January 20, 1981, States in this Flyway, except Louisiana, may select 70-day seasons on geese (except as noted below for Michigan), with a daily bag limit of 5 geese, to include no more than 2 white-fronted geese. The possession limit is 10 geese, to include no more than 4 white-fronted geese. Regulations for Canada geese are shown below by State.

Between October 4, 1980, and February 14, 1981, Louisiana may select 70-day seasons on snow (including blue) and white-fronted geese by zones established for duck hunting seasons, with daily bag and possession limits as described in the above paragraph.

The season on Canada geese is closed in Arkansas and Louisiana.

In Minnesota, in the:

(a) Lac Qui Parle Zone (described in State Regulations)—the season on Canada geese closes after 50 days or when 5,500 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese.

(b) Southeastern Zone (described in State regulations)—the season for Canada geese may extend for 70 consecutive days. The daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese.

(c) Remainder of the State—the season on Canada geese will be concurrent with the duck season. The daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese.

In Iowa, the season for Canada geese may extend for 70 consecutive days. The daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese.

In Missouri, in the:

(a) Swan Lake Zone (described in State regulations)—the season on Canada geese closes after 70 days or when 20,000 birds have been harvested, whichever occurs first. Through November 23, the daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese. After November 23, the daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese.

(b) Southeastern Area (east of U.S. Highway 67 and south of Crystal City)—State may select a 50-day season on Canada geese between December 1, 1980, and January 20, 1981, with a daily bag limit of 2 Canada geese and a possession limit of 4 Canada geese.

(c) Remainder of the State—the season on Canada geese will be concurrent with the duck season in the respective duck hunting zones. The daily bag limit is 2 Canada geese, and the possession limit is 4 Canada geese.

In Wisconsin, the goose season is 70 days Statewide, except: (a) 50 days in Adams, Brown, Calumet, Columbia, Dodge, Fond du Lac, Green Lake, Jefferson, Juneau, Manitowoc, Marquette, Sheboygan, Washington, Waushara, Winnebago, and Wood Counties opening concurrently with duck season; and (b) if the peak number of Canada geese in these 16 counties is determined to be less than 100,000 birds by October 20, 1980, the season will be 50 days east of a line from Ashland south on Highway 13 to Unity; then south along the western border of Marathon, Wood and Juneau Counties to Highway I–90; then southeasterly along Highway I–90 to the Illinois State line.

The harvest of Canada geese is limited to 30,000. In the Horicon and Central Zones, the daily bag and possession limits are 1 Canada goose. Elsewhere in Wisconsin, the daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese. In the Horicon Zone and the Central Zone, Canada goose hunting is restricted to those persons holding valid Canada goose hunting permits issued by the State.

The Horicon Zone is defined as those portions of the counties of Fond du Lac, Green Lake, Washington and Dodge enclosed by a line beginning at the intersection of State Highway 175 and State Highway 23 in Fond du Lac County, then southerly on State Highway 175 to its intersection with State Highway 33, then westerly on State Highway 33 to the city of Beaver Dam, then northerly on State Highway 33 to its intersection with County Highway A, then northerly on County Highway A to its intersection with County Highway S, then easterly on County Highway S and continuing easterly on County Highway AS to its intersection with County Highway E, then northerly on County Highway E to

its intersection with State Highway 23, then easterly on State Highway 23 to the point of beginning.

The Central Zone is defined as those portions of Fond du Lac, Winnebago, Green Lake, Marquette, Columbia and Dodge Counties enclosed by a line beginning in Winnebago County at the intersection of State Highway 21 and U.S. Highway 45, then southerly on U.S. Highway 45 to its intersection with State Highway 175, then southerly on State Highway 175 to its intersection with State Highway 23, then westerly on State Highway 23 to its intersection with County Highway E, then southerly on County Highway E to its intersection with County Highway AS, then westerly on County Highway AS and continuing westerly on County Highway S to its intersection with County Highway A, then southerly on County Highway A to its intersection with State Highway 33, then southeasterly on State Highway 33 to its intersection with U.S. Highway 151, then southwesterly on U.S. Highway 151 to its intersection with State Highway 73, then northerly on State Highway 73 to its intersection with State Highway 33, then westerly on State Highway 33 to its intersection with State Highway 22, then northerly on State Highway 22 to its intersection with State Highway 23, then northeasterly on State Highway 23 to its intersection with State Highway 49, then northerly on State Highway 49 to its intersection with State Highway 116, then easterly on State Highway 116 to State Highway 21, then easterly on State Highway 21 to the point of beginning.

In Illinois, 70-day seasons on geese may be selected by zones established for duck hunting season, except that in the South Zone the season will close December 31. The harvest of Canada geese is limited to 33,000, with 27,000 birds allocated to the Southern Illinois Zone (described in State regulations). The daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese. The season on Canada geese in the Southern Illinois Zone will open November 3 and extend through December 31, 1980, or until the Zone's quota of 27,000 birds is reached, whichever occurs first.

In Michigan, in the:

(a) Counties of Baraga, Dickinson, Delta, Gogebic, Houghton, Iron, Keweenaw, Marquette, Menominee and Ontonagon—the daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese.

(b) Southeastern Canada Goose Management Area (described in State regulations)—the Canada goose season may extend for 107 days within the flyway framework dates. Through November 14, the daily bag limit will be 1 Canada goose and the possession limit will be 2 Canada geese. From November 15 through November 30, the daily bag limit will be 2 Canada geese and the possession limit will be 4 Canada geese. For the remainder of the season, the daily bag limit will be 3 Canada geese and the possession limit will be 6 Canada geese.

(c) Remainder of the State—the daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese.

In Ohio, the daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese, except that in the counties of Ashtabula, Trumbull, Marion, Wyandot, Lucas, Ottawa, Erie, Sandusky, Mercer and Auglaize, the daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese.

In Indiana, the daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese.

In Kentucky, the daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese.

In Tennessee, the daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese, except in that portion of the State west of State Highway 13, where the daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese. The season on Canada geese is closed in that portion of Tennessee bounded on the north by State Highways 20 and 104, and on the east by U.S. Highways 45W and 45.

In Mississippi, in the Sardis Reservoir Area (that area encompassed by Interstate Highway 55 on the west, State Highway 7 on the east, State Highway 310 on the north and State Highway 6 on the south), the season on Canada geese will be November 15 through December 14, 1980. The daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese. In the remainder of the State, the season on Canda geese is closed.

In Alabama, the season is closed on all geese in the counties of Henry, Russell and Barbour. Elsewhere in Alabama, the daily bag limit is 2 Canada geese and the possession limit is 4 Canada geese.

When it has been determined that the quota of Canada geese allotted to the Southern Illinois Zone and the Swan Lake Zone of Missouri will have been filled, the season for taking Canada geese in the respective area will be closed by the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing.

Geese taken in Illinois and Missouri and in the Kentucky counties of Ballard, Hickman, Fulton, and Carlisle may not be transported, shipped or delivered for transportation or shipment by common carrier, the Postal Service, or by any person except as the personal baggage of the hunter taking the birds.

Central Flyway

Seasons on ducks (including mergansers) and coots may be selected between October 4, 1980, and January 18, 1981, inclusive, in Central Flyway States and portions of States.

The basic season may include no more than 60 days. Conventional limits on ducks (including mergansers), singly or in the aggregate, are 5 daily and 10 in possession. The aggregate daily bag limit on ducks (including mergansers) may include no more than 1 canvasback (note areas closed to canvasback hunting), 1 redhead, 1 female mallard, 1 hooded merganser, and 2 wood ducks. The possession limit may include no more than 1 canvasback (note areas closed to canvasback hunting), 2 redheads, 2 female mallards, 2 hooded mergansers, and 4 wood ducks. The daily bag and possession limits on coots are 15 and 30, respectively.

The areas closed to canvasback hunting are:

North Dakota—that portion lying east of State Highway 3, including all or portions of 27 counties.

South Dakota—all of Marshall County; that portion of Day County east of State Highway 25; that portion of Codington County south of State Highway 20 and west of U.S. Highway 81; that portion of Hamlin County west of U.S. Highway 81; and that portion of Kingsbury County east of State Highway 25 and north of U.S. Highway 14.

As an alternative to conventional bag and possession limits for ducks, point-system regulations may be selected for States and portions of States in this Flyway. The point system season length in the High Plains Mallard Management Unit is 83 days provided that the last 23 days of such season must begin on or after December 13, 1980. The High Plains Unit, roughly defined as that portion of the Central Flyway which lies west of the 100th meridian, shall be described in State regulations. The season length for the Low Plains Unit (those portions of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas not included in the High Plains Mallard Management Unit) may not exceed 60 days.

The point values for species and sexes taken in the Central Flyway are: canvasbacks count 100 points each (note areas closed to canvasback hunting); female mallards, Mexican-like ducks, wood ducks, redheads and hooded mergansers count 70 points each; blue-

winged teal, green-winged teal, cinnamon teal, scaup, pintails, gadwalls, wigeon, shovelers, and mergansers (except the hooded merganser) count 10 points each; all other species and sexes of ducks count 20 points each. The daily bag limit is reached when the point value of the last bird taken, when added to the sum of the point values of other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the coventional limits.

Those portions of Colorado and Wyoming lying west of the Continental Divide, that portion of New Mexico lying west of the Continental Divide plus the entire Jicarilla Apache Indian Reservation, and that portion of Montana which includes the counties of Hill, Chouteau, Cascade, Meagher, and Park and all counties west thereof, must select open seasons on waterfowl and coots in accordance with the framework for the Pacific Flyway.

States in the Central Flyway may select goose seasons between October 4, 1980, and January 18, 1981, inclusive.

Montana, Wyoming and Colorado may select, for the Central Flyway portions, seasons of 93 days, with daily bag and possession limits of 2 and 4 geese, respectively.

New Mexico (for the Central Flyway portion) and Texas (for that portion west of U.S. Highway 81) may select seasons of 93 days with a daily bag limit of 5 geese which may include no more than 2 dark (Canada and white-fronted) geese and a possession limit of 10 geese which may include no more than 4 dark geese.

North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas (for that portion east of U.S. Highway 81) may select seasons (which need not be concurrent) for light (Ross' and snow, including blue) geese of 86 days with limits of 5 daily, and dark (Canada and white-fronted) geese of 72 days with daily bag limits as follows (possession limits are described later):

In North Dakota, 1 Canada goose and 1 white-fronted goose or 2 white-fronted geese.

In South Dakota, 1 Canada goose and 1 white-fronted goose.

In Nebraska, 1 Canada goose and 1 white-fronted goose, except in that portion of the State west of U.S. Highway 183, prior to November 24, the daily bag limit may include 2 Canada geese or 1 Canada goose and 1 white-fronted goose.

In Kansas, 1 Canada and 1 white-fronted goose.

In the Oklahoma counties of Alfalfa, Bryan, Johnston, and Marshall, the State may select either:

(a) A season of 72 days with daily limits of 1 Canada goose and 1 white-fronted goose.

OR

(b) A season of 53 days (within the 72-day period selected for the remainder of the State) with limits of 2 Canada geese or 1 Canada goose and 1 white-fronted goose daily.

In the remainder of Oklahoma, the limits are 2 Canada geese or 1 Canada goose and 1 white-fronted goose daily.

In that portion of Texas east of U.S. Highway 81, the bag limit is 1 Canada goose or 1 white-fronted goose daily.

In all East Tier Central Flyway States, goose possession limits are twice the daily bag limits.

Colorado, Montana, New Mexico, Oklahoma, Texas, and Wyoming may select a sandhill crane season with daily bag and possession limits of 3 and 6, respectively, within an October 4, 1980–January 31, 1981, framework as follows:

(a) 37 consecutive days during the period of October 4 through November 23, 1980, in the Central Flyway portion of Colorado except the San Luis Valley area, and in the Wyoming counties of Crook, Goshen, Laramie, Niobrara, Platte, and Weston.

(b) 93 consecutive days between October 20, 1980, and January 31, 1981, in the New Mexico counties of Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt, and in that portion of Texas west of a boundary from the Oklahoma border along U.S. Highway 287 to U.S. Highway 87 at Dumas, along U.S. Highway 87 (and including all of Howard and Lynn Counties) to U.S. Highway 277 at San Angelo, and along U.S. Highway 277 to the International Toll Bridge in Del Rio.

(c) 58 consecutive days on or after November 22, 1980, in that portion of Oklahoma west of U.S. Highway 81, and in that portion of Texas east of a boundary from the Oklahoma border along U.S. Highway 287 to U.S. Highway 87 at Dumas, then along U.S. Highway 87 to San Angelo, and west of a line running north from San Angelo along U.S. Highway 277 to Abilene, along State Highway 351 to Albany, along U.S. Highway 283 to Vernon, and then along U.S. Highway 183 east to the Oklahoma border.

(d) 37 consecutive days, to open with the goose season, in all of the Central Flyway portion of Montana except Sheridan County and that area south and west of Interstate Highway 90 and the Big Horn River.

All persons hunting sandhill cranes in the above designated areas of the Central Flyway must obtain and possess valid Federal permits issued by the appropriate State conservation agency on an equitable basis without charge.

Emergency closures of hunting seasons will be considered whenever portions of either the Rocky Mountain or Wood Buffalo-Aransas flocks of whooping cranes are found in areas where there is risk to their taking by hunters.

Pacific Flyway

Between October 4, 1980, and January 18, 1981, concurrent 93-day seasons on ducks (including mergansers), coots, and gallinules may be selected in Pacific Flyway States and portions of States, *except* as subsequently noted. Basic daily bag and possession limits on ducks (including mergansers) are 7 and 14, respectively.

No more than 2 redheads or 2 canvasbacks or 1 of each may be taken daily and no more than 4 singly or in the aggregate may be possessed.

The daily bag and possession limits on coots and gallinules are 25 singly or in the aggregate.

Waterfowl season dates for the Colorado River Zone of California must coincide with season dates selected by Arizona for waterfowl. Waterfowl season dates for the Northeastern Zone of California must coincide with season dates selected by Oregon for waterfowl, except that the season on geese may differ according to prescribed options described later. For the Southern Zone of California (as described in Title 14 California Fish and Game Code, Section 502), the State may designate season dates differing from those in the remainder of the State.

For Nevada, county of Clark, the State may designate season dates for waterfowl differing from those in the remainder of the State.

In the Idaho counties of Ada, Bannock, Benewah, Blaine, Bonner, Boundary, Camas, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Kootenai, Latah, Lewis, Lincoln, Minidoka, Nez Perce, Owyhee, Payette, Power, Shoshone, Twin Falls, Washington, and that portion of Bingham County lying outside the Blackfoot Reservoir drainage; the Oregon counties of Baker, Gilliam, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, and Wasco; and in Washington all areas lying east of the summit of the Cascade Mountains and east of the Big White Salmon River in Klickitat County (all formerly identified

as the Columbia Basin Area for ducks), between October 4, 1980, and January 18, 1981, the season lengths for ducks (including mergansers), coots, and gallinules may be 100 days with all seasons to run concurrently.

Between October 4, 1980, and January 18, 1981, 93-day seasons on geese may be selected in States or portions of States in this Flyway, except as subsequently noted. The basic daily bag and possession limits are 6, provided that the daily bag limit includes no more than 3 white geese (snow, including blue, and Ross' geese) and 3 dark geese (Canada and white-fronted geese); the daily bag and possession limits are proportionately reduced in those areas where special restrictions apply to Canada geese. In Washington and Idaho, the daily bag and possession limits are 3 and 6 geese, respectively.

The season is closed on the Aleutian Canada goose.

Three areas in California, described as follows, are restricted in the hunting of dark geese (all subspecies of Canada and white-fronted geese) in order to protect the Aleutian Canada goose for which no hunting is allowed and to temporarily reduce harvests on white-fronted geese and cackling Canada geese:

(1) In the counties of Del Norte and Humboldt there will be no open season on dark geese during the 1980–81 waterfowl hunting season.

In the Sacramento Valley in the area described as follows: beginning at Willows in Glenn County proceeding south on Interstate Highway 5 to the junction with Hahn Road north of Arbuckle in Colusa County; then easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes on the Sacramento River; then southerly on the Sacramento River to the Tisdale By-pass; then easterly on the Tisdale By-pass to where it meets O'Banion Road; then easterly on O'Banion Road to State Highway 99; then northerly on State Highway 99 to its junction with the Gridley-Colusa Highway in Gridley in Butte County; then westerly on the Gridley-Colusa Highway to its junction with the River Road; then northerly on the River Road to the Princeton Ferry; then westerly across the Sacramento River to State Highway 45; then northerly on State Highway 45 to its junction with State Highway 162; then continuing northerly on State Highway 45–162 to Glenn; then westerly on State Highway 162 to the point of beginning in Willows, the hunting season for taking dark geese will not open until December 15, 1980, and will then continue to the end of the 1980–81 waterfowl hunting season.

(3) In the San Joaquin Valley in the area described as follows: beginning at Modesto in Stanislaus County proceeding west on State Highway 132 to the junction of Interstate 5; then southerly on Interstate 5 to the junction of State Highway 152 in Merced County; then easterly on State Highway 152 to the junction of State Highway 59; then northerly on State Highway 59 to the junction of State Highway 99 at Merced; then northerly and westerly to the point of beginning; the hunting season for taking dark geese will close on November 23, 1980.

Emergency closures may be invoked for all Canada geese should Aleutian Canada goose distribution patterns or other circumstances justify such actions.

In the Washington counties of Adams, Benton, Douglas, Franklin, Grant, Kittitas, Klickitat, Lincoln, Walla Walla, and Yakima, and in the Oregon counties of Gilliam, Morrow, Sherman, Umatilla, Union, Wallowa, and Wasco, the goose season may be of 100 days duration and must run concurrently with the duck season; and the bag limits for geese are to be the same as in the general goose season in their respective States.

Oregon, for Lake and Klamath Counties, must select frameworks for season and limits from among the following listed Options 1, 2, 3 and 7; California, for the Northeastern Zone must select frameworks from among Options 1, 2, 3, 8 and 9; and California, for the Balance-of-the-State Zone, must select frameworks from among Options 4, 5, 6 and 8. The selected season for geese must occur within that selected for ducks.

Option 1. A season of not more than 79 days between November 1, 1980, and January 18, 1981, with a basic goose limit of 6 per day and 6 in possession of which not more than 3 dark and 3 white geese may be in the daily bag.

Option 2. A season of not more than 86 days between October 25, 1980, and January 18, 1981, with a basic goose limit of 4 per day and 4 in possession, of which not more than 2 dark and 2 white geese may be in the daily bag.

Option 3. A season of 93 days between October 4, 1980, and January 18, 1981, with a basic goose limit of 2 per day and 2 in possession of which not more than 1 dark and 1 white goose may be in the daily bag.

Option 4. A season of not more than 83 days between October 4 and December 25, 1980, with a basic goose limit of 6 per day and 6 in possession of which not more than 3 dark and 3 white geese may be in the daily bag.

Option 5. A season of not more than 90 days between October 4, 1980, and January 1, 1981, with a basic goose limit of 4 per day and 4 in possession of which not more than 2 dark and 2 white geese may be in the daily bag.

Option 6. A season of not more than 93 days between October 4, 1980, and January 18, 1981, with a basic goose limit of 2 per day and 2 in possession of which not more than 1 dark and 1 white goose may be in the daily bag.

Option 7. A season of not more than 93 days having daily bag limits of 1 dark and 1 white geese with possession limits twice the daily limit through October 31, 1980. Thereafter, limits may be increased to 3 dark and 3 white geese in the daily bag with any 6 geese in possession.

Option 8. A season of not more than 79 days opening not less than 2 weeks after the opening of the duck season, with limits of 2 dark geese and 2 white geese daily and 4 of any geese in possession.

Option 9. A season of not more than 93 days with a limit of 1 goose (either dark or white) in daily bag and possession for the first 14 days of the season. Thereafter, limits may be increased to 3 geese in daily bag and possession of which not more than 2 may be dark geese and not more than 2 may be white geese.

In that portion of Idaho lying west of the line formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to the Montana border (except Boundary, Bonner, Kootenai, Benewah, Shoshone, Latah, Nez Perce, Lewis, Clearwater and Idaho Counties); in the Oregon counties of Baker and Malheur; and in that portion of Montana and Wyoming in the Pacific Flyway, the daily bag and possession limit is 2 Canada geese and the season on Canada geese may not extend beyond December 28, 1980.

In that portion of Idaho lying east of the line formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to the Montana border; in that portion of Colorado in the Pacific Flyway; in Utah except Washington County, the daily bag and possession limits are 2 Canada geese, and the season on Canada geese may be no more than 72 days and may not extend beyond December 21, 1980.

For Nevada, the State may experimentally designate season dates on geese in Clark County and on geese in Elko County and that portion of White Pine County within Ruby Lake National Wildlife Refuge differing from

those in the remainder of the State. The daily bag and possession limits are 2 Canada geese throughout the State.

In Arizona, except in the counties of Mohave and Yuma; in that portion of New Mexico in the Pacific Flyway; in Clark County, Nevada; in Washington County, Utah; and in the Southern Zone, except that portion in California Department of Fish and Game District 22, of California, the season on Canada geese may be no more than 72 days. The daily bag and possession limit is 2 Canada geese and the season on Canada geese may not extend beyond January 18, 1981.

In California, the balance of California Fish and Game District 22 in the Southern Zone (that portion of District 22 lying outside the Colorado River Zone), the daily bag limit is 1 Canada goose with 2 in possession and the season on Canada geese may be no more than 72 days and may not extend beyond January 4, 1981.

In the Arizona counties of Mohave and Yuma and in the Colorado River Zone of California, the seasons on Canada geese may be no more than 72 days and may not extend beyond January 4, 1981. The daily bag and possession limits on Canada geese are 2 and 2, respectively, in these areas. The season on geese in the Colorado River Zone of California must be the same as that selected by Arizona.

In the Washington counties of Island, Skagit, Snohomish, and Whatcom, the seasons on snow geese may not extend beyond January 1, 1981; and the daily bag and possession limits on snow geese are 3 and 6, respectively.

Between October 25, 1980, and February 22, 1981, States in this Flyway may select an open season on black brant of 93 days with daily bag and possession limits of 4 and 8 brant, respectively.

In Utah, Nevada and Montana, an open season for taking a limited number of whistling swans may be selected subject to the following conditions: (a) the season must run concurrently with the duck season; (b) in Utah, no more than 2,500 permits may be issued, authorizing each permittee to take 1 whistling swan; (c) in Nevada, no more than 500 permits may be issued, authorizing each permittee to take 1 whistling swan in Churchill County; (d) in Montana, no more than 500 permits may be issued authorizing each permittee to take 1 whistling swan in Teton County; (e) permits and correspondingly numbered metal locking seals must be issued by the appropriate State conservation agency on an equitable basis without charge.

For all States entirely in the Pacific Flyway, open seasons on common snipe must coincide with the duck season. For other States partially within the Pacific Flyway seasons between September 1, 1980, and February 28, 1981, and not to exceed 93 days, may be selected. The daily bag and possession limits are 8 and 16, respectively. Any State may split its snipe season without penalty.

Special Falconry Frameworks

Falconry is a permitted means of taking migratory game birds in any State.

Any State listed in 50 CFR 21.29(k) as meeting Federal Falconry Standards may select an extended season for taking migratory game birds in accordance with the following:

1. Seasons must fall within the regular season framework dates and, if offered, other special season framework dates for hunting.

2. Season lengths for all permitted methods of hunting within a given area may not exceed 107 days for any species.

3. Hunting hours shall not exceed ½ hour before sunrise to sunset.

4. Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during both regular hunting seasons and extended falconry seasons.

5. Each State selecting extending seasons shall report to the Service the results of the special falconry season by March 15, 1981.

6. Each State selecting the special season must inform the Service of the season dates and publish said regulations.

General hunting regulations, including seasons, hours, and limits, apply to falconry in each State listed in 50 CFR 21.29(k) which does not select an extended falconry season.

Notice.—In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September teal season, special scaup season, special scaup and goldeneye season, or falconry season) exceed 107 days for a species in any geographical area.

Dated: August 28, 1980.

Lynn A. Greenwalt,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 80-26979 Filed 9-3-80; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 32

Opening of Swan Lake National Wildlife Refuge, Mo. to Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to deer hunting of Swan Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 11–13, 1980.

FOR FURTHER INFORMATION CONTACT: Alfred O. Manke, Refuge Manager, Swan Lake National Wildlife Refuge, P.O. Box 68, Sumner, Missouri 64681. Telephone 816–856–3323.

SUPPLEMENTARY INFORMATION:

General

Deer hunting is permitted on the Swan Lake National Wildlife Refuge, Missouri only in the areas designated by signs as being open to hunting. These areas comprising 3,550 acres are delineated on maps available at the refuge headquarters and from the office of the Area Manager, United States Department of the Interior, Fish and Wildlife Service, Suite 106, Rockcreek Office Building, 2701 Rockcreek Parkway, North Kansas City, Missouri 64116.

The Refuge Recreation Act of 1962 (16 U.S.C. 460K) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires that before any area of the refuge system is used for forms of recreation not directly related to the primary purposes and functions of the area, the Secretary must find that: (1) Such recreational use will not interfere with the primary purposes for which the area was established; and (2) funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which this refuge was established. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Deer hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Hunting with longbows, compound, crossbows and muzzleloading firearms firing a single projectile no smaller than .40 caliber are the only legal weapons for this hunt. Hunters are not limited to one type of weapon. Revolvers or rifles capable of being fired more than once without reloading are not permitted. Single shot pistols may be used if .40 caliber or larger.

2. A total of 150 special permits will be issued for the hunt by the Missouri Department of Conservation. Only those persons possessing a valid permit will be allowed to enter the open area.

3. Appropriate State hunting permits are required. Permits cannot be purchased at Swan Lake Wildlife Area.

4. All hunters must check in at the area check station and present both the Managed Deer Hunt Permit and the Missouri Deer Hunting Permit (firearms or archery).

5. Each hunter will be issued an arm band which must be worn on an outer garment while hunting on the area. This requirement is for identification and safety while hunting.

6. Deer of any sex and age may be taken during legal shooting hours which are one-half hour before sunrise until sunset. No other wildlife is to be molested. Only one deer per person may be taken in this hunt.

7. Deer taken in the Swan Lake National Wildlife Refuge must be submitted to the check station on the day killed.

8. Primitive-type camping will be permitted in a designated location near the area headquarters. No special facilities are available. Fires are prohibited except in designated areas.

9. Travel within the Swan Lake National Wildlife Refuge by motor vehicle, including motor bikes, Hondas, etc., is restricted to established roads and trails. Parking is permitted only in designated parking areas.

10. Portable tree stands are permitted but must be removed each day. Tree stands nailed or permanently attached to trees are prohibited. The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The provisions of these special regulations supplement the regulations which generally govern hunting on wildlife refuge areas and which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Dated: August 29, 1980.

Donald G. Young,

Assistant Area Manager, Refuges and Wildlife.

[FR Doc. 80-27015 Filed 9-2-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

National Wildlife Refuges in Montana; Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to upland game bird hunting of Benton Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. These special regulations describe the conditions under which hunting will be permitted on portions of Benton Lake National Wildlife Refuge in Montana.

DATES: September 4, 1980 to November 30, 1980.

FOR FURTHER INFORMATION CONTACT: The Area Manager, or appropriate Refuge Manager, at the address or telephone number listed below:

Wally Steucke, Area Manager, U.S. Fish and Wildlife Service, Room 3035, Federal Building, 316 North 26th Street, Billings, Montana 59101. Telephone: (406) 657-6115.

Robert Pearson, Refuge Manager, Benton Lake National Wildlife Refuge, P.O. Box 450, Black Eagle, Montana 59414. Telephone: (406) 727-7400.

SUPPLEMENTAL INFORMATION:

General: Hunting on portions of the following refuge shall be in accordance with applicable State and Federal seasons and regulations, subject to additional special regulations and conditions as indicated. Portions of the refuge which are open to hunting are designated by signs and/or delineated on maps. Special conditions applying to the refuge and maps are available at refuge headquarters or from the office of the Area Manager (addresses listed above).

The Refuge Receation Act of 1962 (16 U.S.C 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires: (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the following National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.22 Special Regulations: Hunting of upland game birds for individual wildlife refuge areas.

Montana

Benton Lake National Wildlife Refuge

Hunting of Gray (Hungarian) Partridge is permitted on approximately 4,100 acres of the Benton Lake National Wildlife Refuge, Black Eagle, Montana.

The following special regulations apply:

1. The Hungarian partridge hunting season opening and closing dates on the refuge are the same as the waterfowl hunting season.

2. The daily shooting hours for Hungarian partridge are the same as for waterfowl hunting.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 43 CFR part 14.

Dated: August 29, 1980.

Robert M. Ballou,

Acting Area Manager.

[FR Doc. 80-27016 Filed 9-3-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Pee Dee National Wildlife Refuge, N.C.; Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening of the Pee Dee National Wildlife Refuge, North Carolina, to resident game hunting is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

EFFECTIVE DATES: The archery season will be September 12–October 8, 1980, in Richmond County; and October 17–November 12, 1980, in Anson County. The gun season will be November 24–29, 1980, in Richmond and Anson Counties.

FOR FURTHER INFORMATION CONTACT: William C. Hickling, Area Manager, U.S. Fish and Wildlife Service, 279 Federal Building, Asheville, N.C. 28801. Telephone: 704–258–2850, Ext. 321 or Jerry L. Holloman, Refuge Manager, Pee Dee National Wildlife Refuge, P.O. Box 780, Wadesboro, N.C. 28170. Telephone: 704–694–4424.

SUPPLEMENTARY INFORMATION: Pursuant to the requirements of Subsection 102(2)(C) of the National Environmental Policy Act of 1969, an environmental assessment was prepared. It was determined that the opening of the deer hunt at the Pee Dee National Wildlife Refuge was not a major federal action which would significantly affect the quality of the human environment. Thus, a Finding of No Significant Impact was signed on June 2, 1980. Pursuant to Section 7 of the Endangered Species Act of 1973, an Intra-Service Consultation was requested. It was determined that the opening of the deer hunt is not likely to jeopardize the continued existence of the red-cockaded woodpecker. On September 4, 1980, the Final Rule was published, adding the Pee Dee National Wildlife Refuge to the list of areas open to big game hunting.

General

Hunting on the Pee Dee National Wildlife Refuge shall be in accordance with applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. The portion of the Pee Dee Refuge which will be open to hunting will be designated by signs and/or delineated on maps.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires that before any area of the refuge system is used for forms of recreation not directly related to the primary purposes and functions of the area, the Secretary must find that: (1) Such recreational use will not interfere with the primary purposes for which the area was established; and (2) funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the Pee Dee National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Impact Statement on the Operation of the National Wildlife Refuge System, published in November 1976, and the Environmental Assessment on Public Big Game (Deer) Hunting on Pee Dee National Wildlife Refuge and Finding of No Significant Impact signed on June 2, 1980. Funds are available for the administration of the recreational activities permitted by these regulations.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

§ 32.12 Special regulations; big game; for individual refuge areas.

North Carolina

Pee Dee National Wildlife Refuge

Public hunting of white-tailed deer on the Pee Dee National Wildlife Refuge will be permitted on 6,000 acres in Anson and Richmond Counties. The hunt area will include all refuge lands east of Secondary Road 1627. The bag limit will be one deer either sex during the archery hunt; and one antlered deer during the gun hunt. Permits for the gun hunt will be issued on the basis of a public drawing to be held at Refuge Headquarters at 10:00 a.m. on October 31, 1980. One hundred twenty-five permits will be drawn for each of the two three-day gun hunts, November 24–26, and November 27–29, 1980. No permits will be required for the archery hunt. All hunters must wear outer garments consisting of at least 500 square inches of a daylight fluorescent orange material above the waist. The use of dogs and man-driving are prohibited. Only portable stands are permitted. The driving of nails, spikes, or other metal objects into any tree or the hunting from such tree is prohibited.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas, generally, which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

Dated: August 29, 1980.

William C. Hickling,

Area Manager.

[FR Doc. 80-27017 Filed 9-3-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Parts 32 and 33

Opening of Certain National Wildlife Refuges to Hunting and Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule adds Las Vegas National Wildlife Refuge, New Mexico; Anahuac National Wildlife Refuge, Texas; and McFaddin National Wildlife Refuge, Texas, to the list of refuge areas open for migratory game bird hunting. Benton Lake National Wildlife Refuge, Montana, is added to the areas open for upland game hunting. Harris Neck National Wildlife Refuge, Georgia; Okefenokee National Wildlife Refuge, Georgia; Swan Lake National Wildlife Refuge, Missouri; and Pee Dee National Wildlife Refuge, North Carolina, are added to the list of refuge areas open to big game hunting. Maxwell National Wildlife Refuge, New Mexico, is added to the refuge areas open for sport fishing. The Director has determined that this action would be in accordance with the provisions of all laws applicable to the areas, would be compatible with principles of sound wildlife management, would otherwise be in the public interest, and that such use is compatible with the management objectives established for each refuge. Hunting and sport fishing, subject to annual special regulations, will provide additional public recreational opportunities.

EFFECTIVE DATE: September 4, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald Fowler, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Telephone 202–343–4305.

SUPPLEMENTARY INFORMATION: Ronald L. Fowler is also the primary author of this final rule. As a general rule, most National Wildlife Refuges are closed to hunting or sport fishing until officially opened by regulation. On July 16, 1980, there was published (45 FR 47716) a notice of proposed rulemaking adding the above cited refuges to the designated list of open areas. The public was provided a 30-day comment period and was advised that pursuant to the requirements of section 102(2)(C) of the

National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), an environmental assessment had been prepared on each of these proposals. These assessments are available for public inspection and copying at Room 2341, Department of the Interior, 18th and C Streets, NW, Washington, D.C. 20240, or by mail addressing the Director at the address given above. On the basis of these assessments, the Director has determined that this rulemaking does not constitute a major Federal action significantly affecting the human environment.

Comments Received

A letter from the People Organized for Equal Rights raised several issues regarding the proposed hunt at Harris Neck National Wildlife Refuge. They, the children of previous owners, requested that we withdraw our intentions to allow hunting on their former homeland. Concerns were also expressed about a waterfowl hunt.

Response: A lawsuit concerning the ownership rights to the Harris Neck National Wildlife Refuge affirmed the authority of the Service to manage the lands as a unit of the National Wildlife Refuge System. The Harris Neck National Wildlife Refuge is neither open to waterfowl hunting nor is such hunting proposed. The purposes of this proposal are to maintain the deer herd at a level compatible with the refuge land management program for a broad spectrum of wildlife, to avoid the potential loss and damage of habitat within the refuge environment, to avoid the potential loss of the deer herd due to disease or starvation as a result of overpopulation, and to provide outdoor recreation for the public. The deer herd has begun to exceed the carrying capacity of the habitat, and browse lines have begun to develop. The hunt would reduce the population consistent with refuge objectives and habitat conditions. The hunt will be organized in a manner that will insure a quality experience to the participants. In an effort to be sensitive to the expressed concerns, the area around the existing cemetery will be closed to hunting.

A letter from an individual raised several issues regarding the proposed big game hunt at Swan Lake National Wildlife Refuge. It was stated that the term "refuge" means a place of safety; shelter; safe retreat; and suggested that there should be no hunting whatsoever. The issue was also raised as to why the hunt is limited to primitive weapons.

Response: To most people the word "refuge" includes the idea of providing a haven of safety for wildlife—a place of protection. As such, hunting might seem to be an inconsistent use of the refuge system. However, refuges were established primarily to safeguard species and populations and their habitats, not just individual animals. As provided for in the National Wildlife Refuge System Administration Act of 1966 and other applicable laws, and under carefully designed regulations, hunting is consistent with the concept of providing habitat in refuges for healthy populations of wildlife and is compatible with sound wildlife management principles and practices. General observations throughout the past eight years have shown a decline in fawn plurality, an indication of poor nutrition. Harvesting surplus animals would decrease competition for food. The loss of wildlife habitat off-refuge is considered to be one variable influencing the increase of deer on the refuge. This habitat loss is continuing and may increase the refuge population beyond the carrying capacity. A managed deer hunt will help prevent overcrowded conditions. In the environmental assessment, Alternative A provides for no restrictions on the number of hunters or kinds of weapons and a three day hunt. Unlimited numbers of hunters without restrictions on the type of legal weapon would cause an overharvest of the deer and have an unfavorable impact on the resource. In addition to being inconsistent with sound wildlife management practices, this would ultimately lower visits to the refuge and decrease public use outputs. The decision to limit the hunt to primitive weapons is a conscious effort by the Service to provide additional recreational opportunity consistent with the available harvestable surplus.

Several comments were received concerning the proposal at Pee Dee National Wildlife Refuge. The North Carolina Wildlife Resources Commission, Division of Game, supported the proposed hunt. They stated "... deer herds in this area have either exceeded the carrying capacity or is approaching the critical level and annual harvest is necessary to provide a healthy sustained population." A letter was received from an individual supporting the hunt but also expressing concerns about running deer with dogs and making various references to unethical behavior by local hunters. Several landowners requested that the refuge lands in Richmond County be excluded from the hunt because the pattern of land ownership might encourage trespassing on private lands. These landowners also stated that they would expect the Fish and Wildlife Service to assume full responsibility for any property damage caused by negligent hunters.

Response: Special regulations will prohibit the use of dogs. The Federal and State regulations will be enforced during the hunts. Practices to minimize the disturbance to other wildlife species will include care in the locating of access points and parking areas, careful scheduling of scouting periods and hunts, and careful delineation of areas closed to hunting. The refuge staff have doubled their efforts in posting the refuge boundary so there will be no question about the location of the refuge boundary. This should eliminate any inducement for trespass. In addition, the refuge manager will make concerted efforts through the news media to promote understanding of the hunt regulations and to highlight that there are numerous in-holdings in and around the refuge and to caution the hunter to stay off private property. The refuge is also providing a map as part of the hunt regulations brochure which delineates the entire geographical refuge boundary that is open to public hunting. The Service cannot assume responsibilities for the negligent acts of hunters; however, we will make every effort to insure that refuge regulations are complied with and that the hunt is conducted in an orderly fashion.

No other comments were received regarding this proposed rulemaking.

The Director has determined that the proposed uses are compatible with the major purposes for which the areas were established and that funds are available for the development, operation, and maintenance of the permitted forms of recreation. This action will be in accordance with the provisions of all laws applicable to the area, will be compatible with the principles of sound wildlife management, and will otherwise be in the public interest.

Because of the time limitation involved to coordinate the State and Federal hunting regulations and the rapid approach of the hunting season, the U.S. Fish and Wildlife Service has concluded that "good cause" exists within the meaning of 5 U.S.C. 553(d)(3), of the Administrative Procedure Act to expedite the implementation of this rulemaking. Therefore, the effective date of this final rule is September 4, 1980.

Note.—The Department of the Interior determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Accordingly, after consideration of all interests and concerns, 50 CFR Parts 32 and 33 are amended by additions in

§§ 32.11, 32.21, 32.31, and 33.4 as follows:

§ 32.11 List of open areas; migratory game birds.

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New Mexico

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Las Vegas National Wildlife Refuge

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Texas

Anahuac National Wildlife Refuge

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McFaddin National Wildlife Refuge

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§ 32.21 List of open areas; upland game.

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Montana

Benton Lake National Wildlife Refuge

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§ 32.31 List of open areas; big game.

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Georgia

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Harris Neck National Wildlife Refuge

Okefenokee National Wildlife Refuge

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Missouri

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Swan Lake National Wildlife Refuge

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North Carolina

Pee Dee National Wildlife Refuge

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§ 33.4 List of open areas; sport fishing.

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New Mexico

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Maxwell National Wildlife Refuge

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(16 U.S.C. 460k, 16 U.S.C. 668dd)

Dated: August 29, 1980.

Robert S. Cook,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 80-27000 Filed 9-3-80; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 45, No. 173
Thursday, September 4, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1940, 1942 and 1980

[CFDA No. 10.418 Water and Waste Disposal Systems for Rural Communities]

[CFDA No. 10.422 Business and Industrial Loans]

[CFDA No. 10.423 Community Facilities Loan]

[CFDA No. 10.424 Industrial Development Grants]

Implementation of Interagency Agreement Regarding Employment of Comprehensive Employment and Training Act (CETA) Eligible Persons in Jobs Created by Certain FmHA Programs

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its regulations to include an Interagency Agreement involving program assistance to persons eligible for assistance under, or currently participating in, the Comprehensive Employment and Training Act (CETA) program and to include provisions implementing this Agreement in certain program regulations. This action is taken as a result of an administrative decision resulting in an agreeement between various Federal agencies. The intended effect of this action is to increase rural employment opportunities through FmHA program assistance.

DATES: Written comments must be received on or before November 3, 1980.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the address given above. These comments may be for, against and/or suggest an alternative to the proposal.

FOR FURTHER INFORMATION CONTACT: Thomas D. Campbell, Loan Specialist, Business Management and Development Division, Room 5438, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250, telephone 202-447-5428. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available upon request from Mr. Joseph Linsley, Chief, Directives Management Branch, USDA Washington, DC 20250, (202) 447-4057.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant". Applications are subject to State and Areawide clearinghouse review pursuant to procedures in Part I, attachment A of OMB Circular No. A-95 (Revised).

FmHA proposes to amend § 1942.17 of Subpart A of Part 1942, and § 1980.451 of Subpart E of Part 1980 and establish a new Subpart O, Part 1940, Chapter XVIII, Title 7, Code of Federal Regulations. Therefore, as proposed Chapter XVIII of Title 7 is amended as follows:

PART 1940—GENERAL

1. As proposed, Subpart O of Part 1940 is added and reads as follows:

Subpart O—Linking Job Opportunities in the Business and Industry and Community Programs of FmHA With the Long-term Unemployed

Sec.

Authority: 7 U.S.C. 1989; delegation of authority by Secretary of Agriculture, 7 CFR 2.23; delegation of authority by Assistant Secretary for Rural Development, 7 CFR 2.70.

Subpart O—Linking Job Opportunities in the Business and Industry and Community Programs of FmHA With the Long-Term Unemployed

§ 1940.701 General.

A joint Interagency Agreement has been entered into between Farmers Home Administration (FmHA) and the Employment and Training Administration (ETA) of the U.S. Department of Labor (DOL) (see Exhibit A attached). The Agreement provides for specific employment goals ot be established for FmHA Business and Industry (B&I), Community Facilities (CF), Water and Waste Disposal (WWD), and Industrial Development (ID) loan and/or grant programs with respect to persons eligible under the Comprehensive Employment and Training Act (CETA). However, FmHA has chosen not to implement the employment goals for the Industrial Development Grant program at this time but desires the program be considered in the prior rule process. The Agreement will necessitate coordination and cooperation between FmHA State and District Offices and ETA Regional Coordinators to implement this initative. Exhibit B provides a listing of ETA Regional Coordinators. Exihibit C discusses employment plans and provides a suggested format for an employment plan.

§ 1940.702 Purpose.

This Subpart establishes the policy and procedures for filling the permanent jobs created by FmHA Business and Industry and Community Programs with CETA-eligible employees.

§ 1940.703 Background.

FmHA funded projects should benefit the long-term unemployed and low income persons. Targeting the jobs created to those who need them most supports FmHA's primary goals of reducing umemployment and underemployment, and increasing the

income of residents of rural areas. This policy gives emphasis to the use of employment and training programs as an economic development tool. The availability of a skilled labor force is recognized as an incentive in business location and expansion decisions. The ability to provide this skilled work force is a tool which should be used along with other economic development tools, such as public works and business loans.

§ 1940.704 Policy.

To assure that the permanent jobs created by its programs benefit the long-term unemployed, FmHA will work with applicants to establish appropriate employment plans. Such plans will be developed in cooperation with the local employment and training provider(s) and will be designed to create permanent jobs through direct FmHA investments. (Note: To facilitate the re-employment of dislocated workers, the procedures for developing an employment plan will also apply to requests for assistance in areas suffering from Sudden and Severe Economic Dislocation. See Section 1940.705(e) of this subpart). An important part of this policy is to encourage a labor pool at the local level; therefore, FmHA will work with States, economic development districts, and communities to encourage the development of continuing procedures to coordinate job training with development activity.

§ 1940.705 Definitions.

(a) *Comprehensive Employment and Training Act (CETA).* The U.S. Department of Labor's Employment and Training Administration sponsors and supports many programs to help people get jobs and services such as counseling and training to prepare them for jobs. All States and cities, counties, and combinations of local units with populations of 100,000 or more receive direct Federal grants under CETA to design and administer comprehensive employment and training programs that serve the needs of their areas. These State and local units, called "prime sponsors," operate the projects themselves or contract with other groups to provide services. Generally, States are responsible for programs in areas that do not meet the population criterion to receive Federal funds directly. Under the act as amended, economically disadvantaged persons who are unemployed or underemployed can get training, upgrading, retraining, education, and other services designed to qualify them for jobs.

(b) *Dislocated Worker* is defined as a person affected by structural changes in the area economy, and upon whose unemployment, community eligibility for Sudden and Severe Economic Dislocation Program assistance has been based (see SSED below).

(c) *Employment and Training Providers* are agencies and organizations which offer services or programs to assist individuals in preparing for or finding jobs. Normally, these providers will be public or private nonprofit agencies which do not charge a fee for services. They include:

(1) The State or local government, acting as CETA prime sponsor;

(2) The State Employment Security Agency (Job Service);

(3) The Welfare Incentive (Win) program, generally operated by the Job Service;

(4) Job Corps Centers;

(5) Young Adult Conservation Centers (operated by the Departments of Agriculture and Interior);

(6) Apprenticeship programs (operated by an employer and/or relevant unions) and preapprenticeship training programs (operated by a variety of local institutions);

(7) Community based organizations such as Opportunities Industrialization Center (OIC), the Urban League, Service Employment and Redevelopment (SER), Jobs for Progress, Inc. (Often CETA subgrantees);

(8) Skill Centers and State vocational and technical education schools;

(9) Community and junior colleges; and

(10) Other agencies or organizations in the local area.

(d) *Long-term unemployed* is defined as persons who are eligible for programs under CETA. Eligibility criteria for CETA are generally characterized by a period of unemployment and a low family income (see U.S. Department of Labor, Employment and Training Administration 20 CFR Parts 675–680 CETA Regulations). In filling created jobs through FmHA financial assistance with this population, FmHAS does not intend to burden applicants with extensive procedures for certifying the unemployment and income status of persons referred to the jobs. Rather, FmHA strongly encourages applicants to develop employment plans in cooperation with the CETA prime sponsor to assure that referrals are CETA eligible. If a CETA prime sponsor is unable to provide training or referrals for a particular project, FmHA applicants should approach other employment and training providers if any are available in the area. Most of these are familiar with eligibility criteria for CETA. In fact, many are CETA subgrantees and serve the CETA-eligible—or similar—population.

(e) *Sudden and severe economic dislocation (SSED)* assistance is provided through the Economic Development Administration (EDA) of the Department of Commerce. It is designed for areas impacted, or anticipating impact, by economic dislocations involving structural changes in their economy. These structural changes may result from a variety of circumstances, such as the closing or threatened closing of a major employer, or from the impact of rapid rises in population associated with the establishment of new, major job centers. The goal of SSED assistance is to help an area adjust to changes and lay the foundation for orderly economic growth and permanent jobs. In order to qualify for EDA, SSED program assistance, eligible dislocations must have occurred within the preceding 12 months or be expected to occur within 2 years, and must meet the test of impact severity:

(1) If the unemployment rate of the applicable labor market area or Standard Metropolitan Statistical Area (SMSA) exceeds the National average, dislocation in areas not in the SMSA must amount to 2 percent of the employed population or 500 direct jobs.

(2) If the unemployment rate of the applicable Labor Market area or SMSA is equal to or less than the National average, dislocation in areas not in the SMSA must amount to 4 percent of the unemployed population or 1,000 direct jobs.

§ 1940.706–1940.715 [Reserved]

§ 1940.716 Implementation.

To implement FmHA's policy on job linkage:

(a) The time for developing an employment plan is at the beginning of the FmHA project development process. FmHA will require an employment plan in all applications for direct job creating projects except as provided in § 1940.718 (b) and (c). The quality of the employment plan will be a significant, but not necessarily overriding, factor in funding decisions. All applicants will develop employment plans in their projects regardless of size.

(b) FmHA has established an initial Agency National goal that 20 percent of the jobs created as a direct result of FmHA financial assistance will be filled by the long-term unemployed, as defined in Section 1940.705(d). In order to meet or exceed this national goal, each State Office should strive to have at least 20 percent of the employment opportunities resulting from appropriate State FmHA

investments filled by the longterm unemployed. However, the State Director may encourage a different percentage for individual projects depending upon the industry or project being assisted, the skill levels of the jobs, the capacity and effectiveness of the local employment and training provider(s), and the nature of the FmHA applicant.

§ 1940.717 Content of employment plans.

An employment plant will have numerical goals for employing the long-term unemployed and rational procedure for achieving these goals. The plan should identify the number and title of jobs which will be created, the appropriate local employment and training provider(s) which will assist in implementing the plan, and the procedures to be followed for recruiting, training and placing the long-term unemployed. The focus of the employment plan is on the permanent jobs created by the FmHA investments. Exhibit C gives more details on the content of an employment plan.

§ 1040.718 Applicable programs and projects.

All applications of FmHA assistance under B&I and Community Programs should be accompanied by one of the following, according to the particular situation. Those projects funded by FmHA will be coordinated with employment and training programs.

(a) *For projects with readily identifiable permanent jobs.* A completed employment plan or a progress report on the efforts made to date on the development of a plan, including timetable and for establishing the plan and an explanation of why it has not been completed.

(b) *For projects which will create permanent jobs in the future that are not yet identified.* An explanation by the applicant of the planned arrangements in hiring the long-term unemployed for jobs which will be established in the future. (This approach should be used for such projects as industrial parks when the specific tenants have not been identified.)

(c) *For projects which are not designed to create direct permanent jobs, projects which are designed to create jobs requiring specialized skills which local training programs cannot provide, or projects which will create so few jobs that an employment plan is not practical.* If it is determined that an employment plan is not applicable to an FmHA project (e.g., one which is not designed to create direct permanent jobs), this inapplicability must be explained in writing by the applicant.

§ 1940.719 Reporting the job linkage.

The State Director or designee will ensure that information necessary for accurate and timely reporting is entered into the Rural Community Facilities Tracking system (RCFTS), (FmHA Instruction 2033–F, "Records"). Form FmHA 2033–38, "Rural Community Facility and Facility's Funding Data," will be used to record the number of CETA eligible persons projected to be employed and/or employed in accordance with the employment plan. Periodically but no later than March 1 and September 1 of each year, such information will be updated and verified through information obtained from site visits and/or borrower submissions. The State Office is responsible for maintaining such information and must be informed of any actions which have to be reported on the RCFTS.

§ 1940.720 State supplement.

The FmHA State Director may issue a State supplement, consistent with these regulations, to properly implement the policies of the Agreement.

§ 1940.721–1940.750 [Reserved]

Exhibit A.—Interagency Agreement Between the Farmers Home Administration of the Department of Agriculture and the Employment and Training Administration of the Department of Labor

I. Purpose

In an effort to effectively implement the Interagency Coordinating Council's Employment Initiatives, this Agreement specifies the process by which the Employment and Training Administration (ETA) of the Department of Labor (DOL) and the Farmers Home Administration (FmHA) of the Department of Agriculture will coordinate their programs to ensure that the maximum feasible number of jobs created by FmHA's Business and Industrial Loan (B&I), Community Facilities Loan (CFL), Water and Waste Disposal Loans and Grants (WWD), and Industrial Development Grant (IDG) programs * go to persons eligible for assistance under the Comprehensive Employment and Training Act, as amended, or persons who are currently CETA participants (hereafter referred to as CETA eligible persons).

II. Scope

In order to accomplish the purpose of this Agreement, the provisions set forth herein relate to (1) specific employment goals to be established by FmHA with respect to CETA eligible persons; (2) operational procedures to be used by FmHA and ETA in achieving these employment goals; (3) reporting and monitoring; and (4) provision for technical assistance and training to facilitate placing CETA eligible persons in permanent jobs created by Federal economic development activities.

*These programs are subsequently referred to as FmHA's developmental programs.

III. Employment Goals

Consistent with its legislative mandate to stimulate commercial and industrial development in rural areas as well as to increase employment opportunities for the long-term unemployed, FmHA agrees to the following provisions:

1. As a fisal 1980 goal, 20 percent of the permanent jobs created by its developmental programs will be filled by CETA eligible persons;

2. As a minimum, require that employment goals equivalent to the Agency's overall goal be established for projects having an employment impact; and

3. By no later than September 1 of each year, in conjunction with the ETA, FmHA will review the current annual employment goal and experience and set the goal for the next fiscal year by September 20.

IV. Operational Procedures

A. FmHA

To achieve the employment goal that has been establsihed for fiscal year 1980 as well as those of succeeding years, FmHA will institute the following operational procedures:

1. *Provide ETA with list of Employment Initiatives Coordinators*—FmHA will provide each ETA Regional Administrator with the names, addresses, and telephone numbers of the State FmHA Employment Initiatives Coordinators in their respective region.

2. *Initiate Consultation*—When an FmHA-funded project will result in the creation of new, permanent jobs, an employment plan will be developed by the FmHA applicant, working in conjunction with appropriate FmHA staff, initiating formal consultation with a CETA prime sponsor or other employment/training provider as early as possible during project development (preapplication, application stages). FmHA's staff will advise the applicant to consult first with the CETA prime sponsor in order to target a portion of the jobs created to CETA eligible persons. Continuing consultation is expected throughout the preapplication, application, project funding, and project implementation stages.

3. *Employment Plan*—Applicants seeking assistance under FmHA's developmental programs will be expected to complete an employment plan as part of their application for assistance when new, permanent jobs will result from such support. The determination as to whether new, permanent jobs will be created will be made by FmHA staff and the applicant as early as possible during project development (preapplication, application stages). If an employment plan is not appropriate, an explanation of why it is not must be submitted with the application. The employment plan shall include the following elements:

a. The total number and titles of jobs to be created by the project;

b. The toal number, specific titles and timing of jobs to be made available to CETA eligible persons;

c. The skill requirements for the jobs that are being made available to CETA eligible persons;

d. The Linkage Process:

1. Name of employment and training provider (e.g., CETA prime sponsor or CETA subgrantee) that is assisting the applicant in developing and implementing the employment plan. (Include name of responsible person, address, and telephone number.)

2. Identification of employment and training programs to be applied in preparing and/or referring qualified persons to available jobs. Indication of how they will be used and any special conditions required by the employer (e.g., number of referrals per vancancy to be filled, timing of referrals).

3. Identification of the roles and responsibilities of the participants in the employment plan (i.e., FmHA-applicant; FmHA beneficiary, if different from applicant; CETA prime sponsor or other employment and training provider).

4. Indication or procedure and schedule for implementing the employment plan.

e. Provide the signature of persons or agency representatives party to the employment plan (i.e., FmHA applicant; FmHA beneficiary, if different from applicant; CETA prime sponsor or other employment and training provider).

4. *Notification*—Upon approval of a project which includes or will include an employment plan, FmHA's staff will notify the CETA prime sponsor or other employment/training provider signatory to the employment plan, as well as the ETA Regional Employment Initiatives Coordinator in order to activate the employment/training system to prepare CETA eligible persons for the jobs.

5. *Certification of Eligibility*—FmHA and its fund recipients will work with CETA prime sponsors and the ETA delivery system* in certifying the eligibility of persons who may be eligible for CETA assistance, but are not CETA participants when such persons are to fill jobs resulting from EDA's projects.

6. *Identifying Alternate Employment/ Training Provider*—When the local prime sponsor is unable to assist FmHA's staff and applicant in developing and implementing an employment plan, FmHA's staff may call upon the ETA Employment Initiatives Coordinator to discuss an alternate employment/training provider who might provide the necessary services.

B. ETA

The employment and Training Administration recognizes that linking its employment and training programs with FmHA's development programs can result in increased permanent employment opportunities for CETA eligible persons, and agrees to facilitate this linkage by undertaking several activities:

1. *Provide FmHA with List of Prime Sponsors*—The Employment and Training Administration will provide each FmHA State Director with an updated list of CETA prime sponsor directors and regional ETA Employment Initiatives Coordinators, along with their telephone numbers and addresses.

2. *Staff*—ETA will require each Regional Administrator and prime sponsor to identify an Employment Initiatives Coordinator to assume responsibility for coordinating activities related to the Employment Initiatives. To the extent possible, personnel assigned these functions at the Federal and local levels and should be the same staff that has been assigned to the Private Initiatives Program.

3. *Responsibilities of Employment Initiatives Coordinators*—The designated Employment Initiatives Coordinators assigned to coordinate activities related to the Employment Initiatives in each of the regions by ETA and at the local level by prime sponsors will assist FmHA's staff and applicant in developing and implementing the employment plan delineated above. The Employment Initiatives Coordinators also will be responsible, at their respective levels, for monitoring the progress of the FmHA funded projects in order to undertake the necessary CETA activities (e.g., employment, training, recruiting, screening, referral, and counseling services) at the appropriate time to place CETA eligible persons in permanent jobs created by FmHA's programs.

4. *Identifying Alternate Employment/ Training Provider*—When the local prime sponsor is unable to assist FmHA's staff and applicant in developing and implementing an employment plan, the FmHA's staff may call upon the ETA Employment Initiatives Coordinator to discuss an alternate employment/training provider who might provide the necessary services.

5. *Assist FmHA in Describing CETA Programs and Participants*—Consistent with available funds, ETA will assist FmHA in involving its applicants in employment/ training programs by developing and publishing information packets geared to the private sector, focusing on the availability and benefits of employment/training resources, including various tax credits.

6. *Certification of Eligibility*—Prime sponsors and the ETA delivery system, working with FmHA and its fund recipients, will certify the eligibility of all persons who fill jobs resulting from FmHA's projects.

V. Reporting/Monitoring

In order to keep the Interagency Coordinating Council (IACC), the Office of Management and Budget (OMB), and each of the participating agencies informed of the progress being made in filling permanent jobs which result from FmHA's investments with CETA eligible persons, FmHA and ETA agree to the following reporting/monitoring provisions:

A. Effective April 1, 1980, and on a semi-annual basis thereafter (October 1 and April 1), FmHA will submit reports to OMB. These reports shall include the total number of projects funded for the six month and annual periods, the Federal dollars committed by program type, the number of permanent jobs anticipated, the total number of actual jobs created, and the number/percent of jobs to be filled by CETA eligible persons.

B. Effective April 1, 1980, and on a semi-annual basis thereafter (October 1 and April 1), ETA will submit reports to OMB. These reports shall include the total number of employment plans that prime sponsors and other ETA instrumentalities have entered into with FmHA and its grantees, the total number of jobs projected for CETA eligible persons, and the total number of CETA eligible persons actually placed in jobs created by FmHA's developmental programs.

VI. Technical Assistance

To facilitate and promote the placement of CETA eligible persons in permanent jobs resulting from FmHA assistance, both ETA and FmHA agree to provide the following technical assistance:

1. Whenever necessary, the agencies will brief each other's staff on programmatic and/ or procedural changes affecting the implementation of the Employment Initiatives.

2. Jointly develop and publish promotional information on the placement of CETA eligible persons in permanent jobs created by FmHA investments.

3. As necessary, jointly conduct interagency workshops/seminars related to the Employment Initiatives, assessing experiences and focusing on techniques and strategies to be used to implement the Employment Initiatives more effectively.

VII. Duration

This agreement shall remain in effect through November 1, 1982. ETA and FmHA will, however, jointly review the provisions herein on an annual basis (prior to September 30) in order to make any necessary modifications. The operational procedures that are being utilized by FmHA and ETA to achieve FmHA's employment goal will be given particular attention during each annual review.

For the Department of Labor.

Ernest G. Green,

Assistant Secretary for Employment and Training.

November 26, 1979.

For the Department of Agriculture.

Alex P. Mercure,

Assistant Secretary for Rural Development.

November 16, 1979.

Exhibit B—Employment and Training Administration

Regional Coordinators for Employment Initiatives

Region I—Boston; Francis Currie, 617-223-6443, Executive Assistant.
Region II—New York; Charlotte Williams, 212-944-3226, Special Assistant for the FRC.
Region III—Philadelphia; Edwin Strong, 215-596-6405, PSIP Coordinator.
Region IV—Atlanta; Jim Watts, 404-881-4800, PSIP Coordinator.
Region V—Chicago; Jane Mellon, 312-353-4683, PSIP Coordinator.
Region VI—Dallas; Jack Nelson, 214-767-4977, Deputy Associate, Regional Administrator.
Region VII—Kansas; Bob Hanson, 816-374-3796, Executive Assistant to the Regional Administrator.
Region VIII—Denver; Wayne Thompson, 303-837-3181, Associate Regional Administrator.
Region IX—San Francisco; Phillip Cranford, 415-556-5279, Executive Assistant to the Regional Administrator.

*ETA delivery system to the Job Service, Work Incentive, (WIN) Program, Bureau of Apprenticeship and Training, and Job Corps.

Region X—Seattle; Carolyn Graves, 206–442–7700, Special Assistant to the Regional Administrator.

Exhibit C—Employment Plan for Making Permanent Jobs Available to the Long-Term Unemployed

Information to Accompany FmHA Applications

From the beginning of this Administration the Farmers Home Administration (FmHA) had a mandate to make some of its financial assistance available so that the long-term unemployed could find and keep jobs. In order to ensure this linkage between the jobs and the long-term unemployed, FmHA requires an employment plan to be developed and submitted by all FmHA Business and Industry (B&I) and Community Program applicants who create new long-term jobs which can be filled by persons trained or referred by local employment and training providers.

The employment plan is not intented to be a burden. When properly developed and implemented, it can bring a wide range of employment and training resources as well as tax credit benefits to bear on the needs of individual private employers. In addition, the employment plan will enable cities, counties or districts to enlist additional resources to carry out their economic development programs.

An employment plan should embody an agreement between or among the FmHA public or private sector applicant, the project beneficiary (ies), (if not the FmHA applicant), and the local employment and training provider. These organizations should be the key actors in the developement and implementation of an employment plan. A significant role could be played by the local economic development agency when it is not the applicant organization.

If circumstances beyond the control of the FmHA applicant do not permit the completion of the employment plan before submission of the project application to FmHA, the submission should not be delayed. An employment plan should be submitted, however, that indicates the barriers to completing the plan and what steps will be taken and in what time frame to develop the plan fully.

If the permanent jobs that will be created by the FmHA project cannot be identified at the time of application, the applicant should indicate the institutional arrangments and procedures that will be pursued to ensure that the appropriate employment plan will be developed in a timely fashion.

The employment plan should always be brief (usually not more then 2 to 3 pages), realistic, and responsive to the key question: How will the long-term unemployed be assured of being considered for the jobs produced by this project?

The following is a suggested format for an employment plan. Any particular project may have needs or benefits that would suggest a different format. Any format is acceptable as long as the basic information is provided.

Suggested Employment Plan Format

1. Identify total number and titles of jobs to be created or saved by this project.

2. Identify the goals for the total number, titles and timing of jobs to be made available to long-term unemployed.

3. Identify the skill requirements for the jobs that are being made available.

4. The Job Program

a. Name of employment and training provider (e.g., CETA prime sponsor or subgrantee) that is assisting applicant in developing and implementing this employment plan. (Include name of responsible person, address, and telephone number).

b. Identify employment and training programs and resources and tax benefits to be applied in preparing and/or referring qualified persons to available jobs. Indicate how they will be used and any special conditions required by the employer (e.g., number of referrals per vacancy to be filled, timing of referrals).

c. Identify the roles and responsibilities of the participants in the employment plan (i.e, FmHA applicants, beneficiary, if different from applicant, employment and training provider and local economic development agency, if not the applicant).

d. Indicate steps to be taken and schedule for implementing plan.

5. Provide the signatures of persons or agency representatives party to the employment plan (i.e., FmHA applicant, beneficiary, if different from applicant; employment and training provider; and economic development agency, if not the applicant).

PART 1942—ASSOCIATIONS

Subpart A—Community Facility Loans

2. As proposed, § 1942.17(j)(9) is added and reads as follows:

§ 1942.17 Appendix A—Community facilities.

* * * * *

(j) *General requirements.*

* * * * *

(9) *Employment Plan.* All applicants for assistance to fund projects which will create new, permanent employment opportunities will be required to develop an employment plan as required by Subpart O of Part 1940 of this Chapter and the following:

(i) The plan must be approved by FmHA before loan closing or starting construction, whichever is first. The requirements and benefits of the plan should be discussed with the applicant at the preapplication conference and a copy of Exhibit C of Subpart O of Part 1940 of this Chapter should be provided as a suggested format.

(ii) Normally the applicant will be required to contact the appropriate Comprehensive Employment and Training Act (CETA) Prime Sponsor for assistance in developing the plan. The plan should include an agreement between the applicant and the CETA Prime Sponsor that the CETA Prime Sponsor will provide training and/or referrals for future employment needs of the applicant.

(iii) FmHA staff will provide assistance as necessary to insure that formal consultation between the applicant and a CETA Prime Sponsor is initiated as early as possible during project development and continues as needed throughout the preapplication, application, project funding, and project implementation stages.

(iv) When a local CETA Prime Sponsor is unable to assist the FmHA applicant in developing and implementing an employment plan, FmHA staff should contact the ETA Regional Coordinator for Employment Initiatives and determine an alternate employment/training provider to provide the necessary services. An exception may be made to the employment plan requirements for a particular project, if the State Director determines that:

(A) Diligent efforts to meet the requirements have been made; and

(B) No suitable employment/training provider is available or no suitable CETA eligible persons are available for employment.

* * * * *

PART 1980—GENERAL

Subpart E—Business and Industrial Loan Programs

3. As proposed a new paragraph (i)(19) is added to § 1980.451 and § 1980.451, paragraph B.4 under the heading Administrative is amended to read as follows:

§ 1980.451 Filing and processing.

* * * * *

(i) * * *.

(19) an employment plan as specified in 7 CFR 1940–O.

* * * * *

Administrative

* * * * *

B. *The State Director:*

* * * * *

4. *par (f)* Preapplications are not to be accepted or processed unless a lender has agreed in writing to finance the proposal. The preapplication letter is a joint letter prepared by the applicant and lender.

To assure that employment opportunities created by the proposal are directly linked to the unemployment rate, the State Director will work with applicants to establish an employment plan. Such plan will be developed in cooperation with the local employment and training provider(s) and will specificially address the permanent jobs

being directly created by the proposed loan. Exhibits A and C to FmHA Instruction 1940–O provide further detail on employment plans. Exhibits B and C should be provided to the applicant for information and a suggested format at time of application.

* * * * *

Note.—This document has been reviewed in accordance with FmHA Instruction 1901–G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment an in accordance with the National Environmental Policy Act of 1969, P.L. 91–190, en Environmental Impact Statement is not required.

(7 U.S.C. 1989; delegation of authority by Secretary of Agriculture, 7 CFR 2.23; delegation of authority by Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: August 20, 1980.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 80-27104 Filed 9-3-80; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Ch. III

Request for Comments on Effects of Foreign Policy Export Controls

AGENCY: U.S. Department of Commerce, International Trade Administration, Office of Export Administration.

ACTION: Proposed rule; solicitation of comments.

SUMMARY: Section 6 of the Export Administration Act of 1979 provides that export controls imposed for foreign policy reasons expire one year after imposition unless extended. In preparation for revision or extension of controls on January 1, 1981, the Department is seeking comments on how controls imposed or extended effective January 1, 1980, and subsequently, have affected exporters and the general public.

DATE: Comments should be received by November 3, 1980 to assure full consideration in formulation of control policies.

ADDRESS: Written comments (six copies when possible) should be sent to: Mr. Richard J. Isadore, Acting Director, Operations Division, Office of Export Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Daniel E. Cook, Assistant to the Director, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: (202) 377–4159.

SUPPLEMENTARY INFORMATION: The Export Administration Act of 1979, for the first time, provided legislative criteria for the imposition, extension, or expansion of foreign policy export controls. Subsection 6(a)(2) of the Act provides that:

> Export controls maintained for foreign policy purposes shall expire on December 31, 1979, or one year after imposition, whichever is later, unless extended * * * Any such extension and any subsequent extension shall not be for a period of more than one year.

Foreign policy controls were imposed or extended effective January 1, 1980, covering international terrorism, regional stability, South Africa and Namibia, human rights, embargoes communist countries and the oil and gas equipment for the Soviet Union. At the same time, the Department announced that nuclear nonproliferation controls continued in effect pursuant to section 17(d) of the Act and section 309(c) of the Nuclear Nonproliferation Act of 1978. For details on these controls, see 45 FR 1595 January 8, 1980, or Export Administration Bulletin (EAB) No. 201 of January 25, 1980. Subsequently, foreign policy controls have been imposed on agricultural products to the USSR (45 FR 1883, January 9, 1980, and 45 FR 8289, February 7, 1980, or EAB No. 201, January 25, 1980 and EAB No. 203, February 15, 1980); phosphates to the USSR (45 FR 8293, February 7, 1980, and 45 FR 24458, April 10, 1980 or EAB No. 203, February 15, 1980 and EAB No. 205, June 9, 1980); transactions related to the 1980 Summer Olympics (45 FR 21612, April 2, 1980, or EAB No. 204, April 18, 1980); and truck engine assembly lines for the Soviet Kama River Truck Complex (45 FR 30617, May 9, 1980, or EAB No. 205, June 9, 1980). Controls to combat international terriorism have been expanded (45 FR 33955, May 21 1980, or EAB No. 205, June 9, 1980), and controls on shipments to the USSR of agricultural products, phosphates, and oil and gas equipment were expanded to encompass Afghanistan (45 FR 37415, June 3, 1980, or EAB No. 205, June 9, 1980).

Although certain of these controls would not normally expire on December 31, 1980, the Department is considering extending or revising them effective January 1, 1981. A uniform renewal date for all foreign policy controls could increase consistency and assure maximum public interest and participation in the review process.

The Act requires the following criteria to be considered when imposing, expanding, or extending foreign policy export controls:

(1) The probability that such controls will achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods or technology proposed for such control;

(2) The compatibility of the proposed controls with the foreign policy objectives of the United States, including the effort to counter international terrorism, and with overall United States policy toward the country which is the proposed target of the controls;

(3) The reaction of other countries to the imposition or expansion of such export controls by the United States;

(4) The likely effects of the proposed controls on the export performance of the United States, on the competitive position of the United States in the international economy, on the international reputation of the United States as a supplier of goods and technology, and on individual United States companies and their employees and communities, including the effects of the controls on existing contracts;

(5) The ability of the United States to enforce the proposed controls effectively; and

(6) The foreign policy consequences of not imposing controls.

The Department is particularly interested in the experience of individual exporters in complying with these controls, with emphasis on economic impact and specific instances of business lost to foreign competitors. Comments previously submitted will be considered automatically and need not be repeated, but the submission of further information based on subsequent experience is encouraged.

Parties submitting comments are asked to be as specific as possible. However, respondents are reminded that the Department is soliciting only information that may be quoted publicly. No "confidential business information" will be accepted. Any information so designated will be returned to the commenter.

All comments received before the close of the comment period will be considered by the Department in the development of final regulations. While comments received after the close of the comment period will be considered if possible, their consideration cannot be assured.

All public comments will be a matter of public record and will be available

for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda that will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not routinely be made available for public inspection.

The public record concerning these comments will be maintained in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 3012, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

Those comments previously submitted are already in this facility. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Mrs. Patricia L. Mann, the International Trade Administration's Freedom of Information Officer, at the above address or by calling (202) 377-3031.

(Secs. 6, and 13, Pub. L. 96-72, 93 Stat. 503, to be codified at 50 U.S.C. App. 2401 *et seq.;* Executive Order 12214, 45 FR 29783 (May 6, 1980); Department Organization Order 10-3, 45 FR 6141 (January 25, 1980); International Trade Administration Organization and Function Order 41-1, 45 FR 11862 (February 22, 1980))

Dated: August 27, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-26794 Filed 9-3-80; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Eligibility; Amount of Benefits; Residence and Citizenship

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: We plan to revise and reorganize our general rules on eligibility (Subpart B) under the Supplemental Security Income (SSI) program. These rules describe who may get SSI benefits, how long a person's eligibility for benefits lasts, and the reasons why a person who would otherwise be eligible for SSI benefits might not get them. In addition, we have created a new Subpart P in which we have put our rules on residence and citizenship.

DATES: Your comments will be considered if we receive them no later than November 3, 1980.

ADDRESSES: Send your written comments to the Social Security Administration, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203.

Copies of all comments we receive can be seen at the Washington Inquiries Section, Office of Information, Department of Health and Human Services, North Building, Room 1169, 330 Independence Avenue, S.W., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Rita Hauth, Legal Assistant, Room 4234, West High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-7112.

SUPPLEMENTARY INFORMATION: We have retitled, rearranged, and rewritten the rules in Subpart B as part of Operation Common Sense, which is a Department-wide effort to review, simplify, and reduce the rules which are currently in effect. We added subtitles to highlight important rules and make them easier to locate. In addition, we put into other subparts rules that are currently in Subpart B but do not belong there.

Definitions: We added a new section (§ 416.201) to define terms that are used throughout Subpart B. We are defining the phrase "resident of a public institution" in place of the phrase "inmate of a public institution." The latter term is used in the Social Security Act, but is not defined and is also used in current regulations. We do not intend by this to change the kinds of individuals covered by the current regulations but rather to remove the negative connotation of involuntary confinement which is attached to the word "inmate." Our policy has always been that a person need not be involuntarily confined in order to be an inmate.

In this connection we note that the Federal Court of Appeals in *Levings* v. *Califano* interpreted the phrase "inmate of a public institution" in section 1611(e)(1)(A) of the Social Security Act to refer to "persons confined in institutions under some form of restraint, not to persons who reside at facilities on a purely voluntary basis." We do not concur with this interpretation and will be publishing a ruling on this case indicating non-acquiescense with the court's opinion.

We are further revising the substance of the definition of "resident of a public institution" to more clearly express our longstanding policy that a person need not receive the treatment or services provided by an institution in order to be a resident of the institution. Current regulations can be incorrectly interpreted to require that a person actually receive whatever treatment or services he or she needs in order to be considered a resident of a public institution. The revised definition of "resident of a public institution" also states that the person is a resident regardless of whether the institution requires payment.

We have also added definitions to sections of these regulations where they apply.

Who May Get SSI Benefits: This rule (§ 416.202) states that a person is eligible for SSI benefits if he or she is aged, blind, or disabled; a resident of the United States; a citizen or national of the United States or an alien who meets certain requirements; has income and resources within prescribed limits; and files an application for SSI benefits. Subpart B of the existing regulations does not include the filing of an application as a requirement for eligibility. We have added it in this NPRM to make sure that individuals understand that they cannot receive SSI benefits until they submit an application to the Social Security Administration.

Initial Determination and Redetermination of SSI Eligibility: Section 416.203 explains what happens when a person applies for SSI benefits and when eligibility begins. Section 416.204 explains how and when we conduct redeterminations to make sure that a person is still eligible for benefits. This section includes the changes made by the interim rules published November 7, 1979 (44 FR 64402).

Reasons Why Persons May Not Get SSI Benefits for Which They Are Otherwise Eligible: Sections 416.210 through 416.214 explain that persons may not receive SSI benefits if: (1) they do not apply for all other benefits for which they may be eligible, (2) they are residents of a public institution, (3) they do not accept vocational rehabilitation services, (4) they are medically determined drug addicts or alcoholics and do not accept or follow treatment, or (5) they leave the United States. All of these rules are consistent with the purpose of the Supplemental Security Income program—to establish a national

program to provide income to aged, blind, or disabled residents of the United States who have limited income and resources. Persons having a right to another kind of income are expected to do whatever is necessary to get it. Beneficiaries are also expected to do what they can to overcome the handicaps of disability, alcoholism, or drug addiction.

Individuals who are residents of public institutions throughout a month are not eligible for SSI benefits because of a specific provision in the statute. In defining "throughout a month" existing regulations provide that a resident must remain in an institution continuously for 24 hours a day. We are omitting the "24 hours a day" in this NPRM to make the rule conform to the current practice of encouraging residents to engage in recreational and therapeutic activities outside the institution.

Qualified Individuals and Essential Persons: The rules in §§ 416.220 through 416.224 apply only to persons who received State assistance payments for the aged, blind, or disabled for December 1973. Some of these persons had received an increased amount of State assistance to provide for someone to live with them and give them needed care and attention. These persons may continue to receive an additional amount along with their SSI benefits. We call a person to whom we are paying SSI benefits under these circumstances a "qualified individual" and we call the one providing the necessary care an "essential person". The rules describe how both are affected under the SSI program and what happens if a person no longer has an essential person.

Residence and Citizenship: We made a new Subpart P for the rules relating to residence and citizenship for SSI purposes. We have relocated these rules to give them equal emphasis with other eligibility requirements. We have retitled, rearranged, and rewritten them for greater clarity. We have also expanded the rules to include information that has been part of operating instructions. First, we list (§ 416.1602) the kinds of evidence that prove that a person is a resident of the United States. Second, we list (§ 416.1603) the kinds of evidence that prove a person who lives in the Northern Mariana Islands is a citizen of the United States on an interim basis. Third, we have added (§ 416.1604) an alien registration card issued by the government of the Northern Mariana Islands to the list of kinds of evidence that prove lawful admission to the United States for permanent residence.

Lastly, we have added to the list of the kinds of evidence that prove permanent residence in the United States under color of law. Two of these, (an Arrival-Departure Record (INS Form I-94) endorsed "Voluntary Departure Granted-Employment Authorized", and an Order of Supervision (INS Form I-220B) indicating an indefinite stay of deportation) are documents issued by the Immigration and Naturalization Service. The last is proof of an individual's presence in the United States both before and continuously after June 30, 1948. The addition of these items puts into regulations guidelines that personnel in social security offices apply to determine whether individuals are eligible for benefits.

Subpart B is a general statement of eligibility and refers to other subparts for specific details and listings of acceptable evidence. All requirements other than "Residence and Citizenship" are already described in other, separate subparts. We recognize that Subpart P is out of sequence in Part 416 for an eligibility requirement, but "P" was the first unassigned subpart available. When all the subparts of Part 416 have been rewritten they will be rearranged in proper order.

Rate of SSI Benefit Payment for Certain Eligible Persons in Medical Care Facilities: Persons in medical care facilities (hospitals, skilled nursing facilities, intermediate care facilities) where Medicaid pays over 50 percent of their costs may be eligible for SSI benefits at a reduced rate. The rules in Subpart B are currently the only source of information on the benefit rate payable to these people. We are moving the benefit rate rule to a new section (§ 416.414) in Subpart D, "Amount of Benefits" so that all information on benefit rates is in a single location.

(Catalogue of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program)

Dated: March 10, 1980.

William J. Driver,

Commissioner of Social Security.

Approved: August 27, 1980.

Patricia Roberts Harris,

Secretary of Health and Human Services.

Part 416 of Title 20 of the Code of Federal Regulations is amended as follows:

1. Subpart B of Part 416 is revised to read as follows:

Subpart B—Eligibility

General

Sec.

Authority.—Secs. 1102, 1602, 1611, 1614, and 1631 of the Social Security Act as amended, Secs. 211 and 212 of Pub. L. 93-66, 49 Stat. 647 as amended, 86 Stat. 1465, 86 Stat. 1466, 86 Stat. 1471, and 86 Stat. 1475, 42 U.S.C. 1302, 1381a, 1382, 1382c, and 1383.

Subpart B—Eligibility

General

§ 416.200 Introduction.

You are eligible for SSI benefits if you meet all the basic requirements listed in § 416.202. You must give us any information we request and give us necessary documents or other evidence to prove that you meet these requirements. We determine your eligibility and benefit amount for each calendar quarter on the basis of the income you receive and your resources available within that quarter. You continue to be eligible and receive benefits unless you lose your eligibility because you no longer meet the basic requirements or because of one of the reasons given in §§ 416.210 through 416.214.

§ 416.201 General definitions and terms used in this subpart.

"Calendar quarter" means a period of three full calendar months beginning with January, April, July, or October.

"Institution" means an establishment that makes available some treatment or services in addition to food and shelter to four or more persons who are not related to the proprietor.

"Medical care facility" means a hospital (defined in section 1861(e) of the Act), a skilled nursing facility (defined in section 1861(j) of the Act), or an intermediate care facility (defined in section 1905(c) of the Act).

"Public institution" means an institution that is operated by or controlled by the Federal government, a

State, or a political subdivision of a State such as a city or county. The term "public institution" does not include a publicly operated community residence which serves 16 residents or less.

"Resident of a public institution" means a person who receives substantially all of his or her food and shelter in a public institution. The person need not be receiving treatment and services available in the institution and is a resident regardless of whether the resident or anyone else pays for all food, shelter, and other services in the institution. A person is not a resident of a public institution if he or she is living in a public educational institution (as defined in § 404.320(c)(5)) and is enrolled in or registered for the education or vocational training provided by the institution. A "resident" of a public institution means the same thing as an "inmate" of a public institution as used in section 1611(e)(1)(A) of the Social Security Act.

"SSI" means supplemental security income.

"State assistance" means payments made by a State to an aged, blind, or disabled person under a State plan approved under title I, X, XIV, or XVI (AABD) of the Social Security Act which was in effect before the SSI Program.

"We" or "Us" means the Social Security Administration.

"You" or "Your" means the person who applies for or receives SSI benefits or the person for whom an application is filed.

§ 416.202 Who may get SSI benefits.

You are eligible for SSI benefits if you meet all of the following requirements:

(a) You are—

(1) Aged 65 or older (Subpart H);

(2) Blind (Subpart I); or

(3) Disabled (Subpart I).

(b) You are a resident of the United States (§ 416.1602), and—

(1) A citizen or a national of the United States (§ 416.1603);

(2) An alien lawfully admitted for permanent residence in the United States (§ 416.1604); or

(3) An alien permanently residing in the United States under color of law (§ 416.1605).

(c) You do not have more income than is permitted (Subparts K and D).

(d) You do not have more resources than are permitted (Subpart L).

(e) You file an application for SSI benefits (Subpart C).

§ 416.203 Initial determinations of SSI eligibility.

(a) *What happens when you apply for SSI benefits.* When you apply for SSI benefits we will ask you for documents and any other information we need to make sure you meet all the requirements. We will ask for information about your income and resources and about other eligibility requirements and you must answer completely. We will help you get any documents you need but do not have.

(b) *How we determine your eligibility for SSI benefits.* If you apply for SSI benefits in the first month of a calendar quarter, we determine your eligibility for the whole calendar quarter. If you apply for benefits in the second or third month of the calendar quarter, we determine your eligibility for SSI benefits separately for each month in that calendar quarter beginning with the month in which you apply.

§ 416.204 Redeterminations of SSI eligibility.

(a) *Redeterminations defined.* A redetermination is a review of your eligibility to make sure that you are still eligible and that you are receiving the right amount of SSI benefits.

(b) *When we make redeterminations.* (1) We redetermine your eligibility on a scheduled basis at periodic intervals. The length of time between scheduled redeterminations varies depending on the likelihood that your benefit payment may be in error.

(2) We may also redetermine your eligibility when you tell us (or we otherwise learn) of a change in your situation which affects your eligibility or the amount of your benefit.

(c) *The period for which a redetermination applies.* (1) The first redetermination applies to—

(i) The calendar quarter in which we make the redetermination;

(ii) All the calendar quarters after the calendar quarter of first eligibility; and

(iii) Future calendar quarters until the second redetermination.

(2) All other redeterminations apply to—

(i) The calendar quarter in which we make the redetermination;

(ii) All the calendar quarters that came after the last time we made a redetermination; and

(iii) Future calendar quarters until the next redetermination.

(3) If we make two redeterminations which cover the same calendar quarter, the later redetermination is the one we apply to that quarter.

Reasons Why You May Not Get SSI Benefits for Which You Are Otherwise Eligible

§ 416.210 You do not apply for other benefits.

(a) *General rule.* You are not eligible for SSI benefits if you do not apply for all other benefits for which you may be eligible.

(b) *What "other benefits" includes.* "Other benefits" includes annuities, pensions, retirement benefits, and disability benefits. For example, veterans' compensation and pensions; worker's compensation payments; retirement, survivors, and disability insurance benefits; and unemployment insurance benefits are all "other benefits".

(c) *Our notice to you.* We will give you a dated, written notice that will tell you about any other benefits that we think you are likely to be eligible for. In addition, the notice will explain how your eligibility for SSI benefits will be affected if you do not apply for those other benefits.

(d) *What you must do to apply for other benefits.* In order to apply for other benefits, you must file any required applications and do whatever else is needed so that your eligibility for the other benefits can be determined. For example, if any documents (such as a copy of a birth certificate) are required in addition to the application, you must submit them.

(e) *What happens if you do not apply for the other benefits.* (1) If you do not apply for the other benefits within 30 days from the day that you receive our written notice, you are not eligible for SSI benefits. This means that if you are applying for SSI benefits, you cannot receive them. If you are currently receiving SSI benefits, your SSI benefits will stop. In addition, you will have to repay us for any SSI benefits that you received beginning with the month that you received our written notice. We assume (unless you prove otherwise) that you received our written notice 5 days after the date shown on the notice. We will also find that you are not eligible for SSI benefits if you file the required application for other benefits but do not take other necessary steps to obtain them.

(2) We will not find you ineligible for SSI benefits if you have a good reason for not applying for the other benefits within the 30-day period or taking other necessary steps to obtain them. You may have a good reason if, for example—

(i) You are incapacitated (because of illness you were not able to apply); or

(ii) It would be useless for you to apply (you once applied for the benefits and the reasons why you were turned down have not changed).

§ 416.211 You are a resident of a public institution.

(a) *General rule.* You are not eligible for SSI benefits for any month

throughout which you are a resident of a public institution (defined in § 416.201). By "throughout" a month we mean that you reside in an institution as of the beginning of a month and stay the entire month. If you have been a resident of an institution, you remain a resident if you are transferred from one public institution to another of if you are temporarily absent for a period of not more than 14 consecutive days. A person also resides in an institution throughout a month if he or she is born in the institution during the month and resides in the institution the rest of the month or dies in the institution during the month.

(b) *Exception for medical care facilities.* You may be eligible for SSI benefits at the reduced rate described in § 416.414 if—

(1) The public institution in which you reside throughout a month—

(i) Is a medical care facility; and

(ii) Medicaid (title XIX of the Act) pays a substantial part (more than 50 percent) of the cost of your care; or

(2) You reside for part of a month in a public institution and for the rest of the month are in a public or private medical care facility where Medicaid pays more than 50 percent of the cost of your care.

(c) *Exception for publicly operated community residences which serve no more than 16 residents.* (1) *General rule.* If you are a resident of a publicly operated community residence which serves no more than 16 residents, you may be eligible for SSI benefits.

(2) *Services that a facility must provide in order to be a community residence.* To be a community residence, a facility must provide food and shelter. In addition, it must make available some other services. For example, the other services could be—

(i) Social services;

(ii) Help with personal living activities;

(iii) Training in socialization and life skills; or

(iv) Providing occasional or incidental medical or remedial care (see 45 CFR § 228.1 for an explanation of what we mean).

(3) *"Serving no more than 16 residents".* A community residence serves no more than 16 residents if—

(i) It is designed and planned to serve no more than 16 residents, or the design and plan were changed to serve no more than 16 residents; and

(ii) It is in fact serving 16 or fewer residents.

(4) *"Publicly operated".* A community residence is publicly operated if it is operated or controlled by the Federal government, a State, or a political subdivision of a State such as a city or county.

(5) *Facilities which are not a "publicly operated community residence".* If you live in any of the following facilities, you are not a resident of a publicly operated community residence:

(i) A residential facility which is on the grounds of or next to a large institution or multipurpose complex;

(ii) An educational or vocational training institution whose main function is to provide an approved, accredited, or recognized program to some or all of those who live there;

(iii) A jail or other facility in which your personal freedom is restricted because you are a prisoner, are being held under court order, or are being held until charges against your are disposed of; or

(iv) A medical care facility (defined in § 416.201).

§ 416.212 You do not accept vocational rehabilitation services.

If you are disabled or blind, you must accept any appropriate vocational rehabilitation services offered to you by the State agency to which we refer you. If you refuse these services, you are not eligible for benefits unless you have a good reason for not accepting them. The rules on vocational rehabilitation services are in Subpart Q.

§ 416.213 You are a medically determined drug addict or alcoholic and you do not accept or follow treatment.

If you are a medically determined drug addict or alcoholic, you must accept any appropriate treatment for your drug addition or alcoholism that we make available to you. So long as you refuse the treatment, you are eligible to receive SSI benefits. The rules regarding treatment for drug addiction and alcoholism are in Subpart I.

§ 416.214 You leave the United States.

You lose your eligibility for SSI benefits for any month during all of which you are outside of the United States. If you are outside of the United States for 30 days or more in a row, you are not considered to be back in the United States until you are back for 30 days in a row. You may again be eligible for SSI benefits in the month in which the 30 days end.

Eligibility for Increased Benefits Because of Essential Persons

§ 416.220 General.

If you are a "qualified" individual and have an essential person you may be eligible for increased benefits. You may be a qualified individual and have an essential person only if you received benefits under a State assistance plan approved under title I, X, XIV, or XVI (AABD) of the Act. Definitions and rules that apply to qualified individuals and essential persons are discussed in §§ 416.221 through 416.223.

§ 416.221 Who is a qualified individual.

You are a qualified individual if—

(a) You received aid or assistance for the month of December 1973 under a State plan approved under title I, X, XIV, or XVI (AABD) of the Act;

(b) The State took into account the needs of another person in deciding your need for the State assistance for December 1973;

(c) That other person was living in your home in December 1973; and

(d) That other person was not eligible for State assistance for December 1973.

§ 416.222 Who is an essential person.

(a) *General rule.* A person is an essential person if—

(1) That person has continuously lived in the home of the same qualified individual since December 1973;

(2) That person was not eligible for State assistance for December 1973;

(3) That person was never eligible for SSI benefits in his or her own right or as an eligible spouse; and

(4) There are State records which show that under a State plan in effect for June 1973, the State took that person's needs into account in determining your, the qualified individual's, need for State assistance for December 1973.

Any person who meets these requirements is an essential person. This means that you, the qualified individual, can have more than one essential person.

(b) *Absence of an essential person from the home of a qualified individual.* An essential person may be temporarily absent from the home of a qualified individual and still be an essential person. For example, the essential person could be hospitalized. We consider an absence to be temporary if—

(1) The essential person intends to return;

(2) The facts support this intention;

(3) It is likely that he or she will return; and

(4) The absence is not longer than 90 days.

(c) *Absence of a qualified individual from his or her home.* You, the qualified individual, may be temporarily absent from your home and still have an essential person. For example, you could be hospitalized. We consider an absence to be temporary if—

(1) You intend to return;
(2) The facts support your intention;
(3) It is likely that you will return; and
(4) Your absence does not exceed six months.

(d) *Essential person becomes eligible for SSI benefits.* If an essential person becomes eligible for SSI benefits, he or she will no longer be an essential person beginning with the month that he or she becomes eligible for the SSI benefits.

§ 416.223 What happens if you are a qualified individual.

(a) *Increased SSI benefits.* We may increase the amount of your SSI benefits if—

(1) You are a qualified individual; and
(2) You have one or more essential persons in your home.

In Subpart D, we explain how these increased benefits are calculated.

(b) *Income and resource limits.* If you are a qualified individual, we consider the income and resources of an essential person in your home to be yours. You are eligible for increased SSI benefits if—

(1) Your resources which are counted do not exceed the limit for SSI eligibility purposes (see Subpart L); and
(2) Your income which is counted for SSI eligibility purposes (see Subpart K) does not exceed the sum of—
(i) The SSI Federal benefit rate (see Subpart D); and
(ii) The proper number of essential person increments (for the value of an essential person increment see Subpart D). One essential person increment is added to the SSI Federal benefit rate for each essential person in your home.

(c) *Excluding the income and resources of an essential person.* (1) While an essential person increment increases your SSI Federal benefit rate, that person's income which we consider to be yours may actually result in a lower monthly payment to you. We will discuss this with you and explain how an essential person affects your benefit. If you choose to do so, you may ask us in writing to determine your eligibility without your essential person or, if you have more than one essential person, without one or more of your essential persons. We will then figure the amount of your SSI benefits without counting as your own the income and resources of the essential persons that you specify and we will end the essential person increment for those essential persons. You should consider this carefully because once you make the request, you cannot withdraw it. We will make the change beginning with the month following the month that you make the request.

(2) We will not include the income and resources of the essential person if the person's income or resources would cause you to lose your eligibility. The loss of the essential person increment will be permanent.

2. In Subpart D a new § 416.414 is added to read as follows:

§ 416.414 Amount of benefits; eligible individual or eligible couple in a medical care facility.

(a) *General rule.* There is a reduced SSI benefit rate for persons who are in medical care facilities where more than 50 percent of the cost of their care is paid by a State plan approved under title XIX of the Social Security Act (Medicaid). Persons who can receive this benefit rate are—

(1) Those who are otherwise eligible and who are in the medical care facility throughout a month (By "throughout a month" we mean that you are in the medical care facility as of the beginning of the month and stay the entire month. If you are in a medical care facility you will be considered to have continuously been staying there if you are transferred from one medical care facility to another or if you are temporarily absent for a period of not more than 14 consecutive days.); and

(2) Those who reside for part of a month in a public institution and for the rest of the month are in a public or private medical care facility where Medicaid pays more than 50 percent of the cost of their care.

(b) *The benefit rates are—*

(1) *Eligible individual.* The benefit rate for an eligible individual with no eligible spouse is $300 per year. The benefit payment is figured by substracting the eligible individual's countable income (see Subpart K) from the benefit rate.

(2) *Eligible couple both in medical care facilities.* The benefit rate for a couple is $600 a year. The benefit payment is figured by subtracting the couple's countable income (see Subpart K) from the benefit rate.

(3) *Eligible couple with one spouse in a medical care facility.* The couple's benefit rate equals:

(i) $300 per year for the spouse in the medical care facility; plus

(ii) The benefit rate for an eligible individual (see § 416.410) for the spouse who is not in the medical care facility. The benefit payment for each spouse is figured by subtracting each individual's own countable income from his or her portion of the benefit rate shown in subparagraphs (i) and (ii) of paragraph (b)(3).

(c) *Definition.* For purposes of this section a "medical care facility" means a hospital (see section 1861(e) of the Act), a skilled nursing facility (see section 1861(j) of the Act), or an intermediate care facility (see section 1905(c) of the Act.)

(Secs. 1102, 1611, and 1631 of the Social Security Act as amended, 49 Stat. 647, as amended, 86 Stat. 1466 as amended, 86 Stat. 1475, 42 U.S.C. 1302, 1382, and 1383)

3. A new Subpart P is added to Part 416 to read as follows:

Subpart P—Residence and Citizenship

Sec.
416.1600 Introduction.
416.1601 Definitions and terms used in this subpart.
416.1602 How to prove you are a resident of the United States.
416.1603 How to prove you are a citizen or a national of the United States.
416.1604 How to prove you are lawfully admitted for permanent residence in the United States.
416.1605 How to prove you are permanently residing in the United States under color of law.

Authority: Secs. 1102, 1614, and 1631 of the Social Security Act as amended, 49 Stat. 647 as amended, 86 Stat. 1471, and 86 Stat. 1475, 42 U.S.C. 1302, 1382c, and 1383.

Subpart P—Residence and Citizenship

§ 416.1600 Introduction.

You are eligible for supplemental security income (SSI) benefits if you meet the requirements in Subpart B. Among these are requirements that you must be a resident of the United States and either a citizen, a national, or an alien with a lawful right to reside permanently in the United States. In this subpart, we tell you what kinds of evidence show that you are a resident of the United States (see § 416.1602) and—

(a) A citizen or a national of the United States (see § 416.1603);
(b) An alien lawfully admitted for permanent residence in the United States (see § 416.1604); or
(c) An alien permanently residing in the United States under color of law (see § 416.1605).

§ 416.1601 Definitions and terms used in this subpart.

"We" or "Us" means the Social Security Administration.

"You" or "Your" means the person who applies for or receives SSI benefits or the person for whom an application is filed.

§ 416.1602 How to prove you are a resident of the United States.

(a) *What you should give us.* You can prove you are a resident of the United States by giving us papers or documents showing that you live in the United States such as—

(1) Property, income, or other tax forms or receipts;

(2) Utility bills, leases, or rent payment records;

(3) Documents that show you participate in a social services program in the United States; or

(4) Other records or documents that show you live in the United States.

(b) *What "resident of the United States" means.* We use the term "resident of the United States" to mean a person who is living within the geographical limits of the United States.

(c) *What "United States" means.* We use the term "United States" in this section to mean the 50 States, the District of Columbia, and the Northern Mariana Islands.

§ 416.1603 How to prove you are a citizen or a national of the United States.

(a) *What you should give us.* You can prove that you are a citizen or a national of the United States by giving us—

(1) A certified copy of your birth certificate which shows that you were born in the United States;

(2) A certified copy of a religious record of your birth or baptism which shows you were born in the United States;

(3) Your naturalization certificate;

(4) Your United States passport;

(5) Your certificate of citizenship;

(6) An identification card for use of resident citizens in the United States (Immigration and Naturalization Service Form I–197); or

(7) An identification card for use of resident citizens of the United States by birth or naturalization of parents (INS Form I–179).

(b) *How to prove you are an interim citizen of the United States if you live in the Northern Mariana Islands.* As a resident of the Northern Mariana Islands you must meet certain conditions to prove you are an interim citizen of the United States. You must prove that you were domiciled in the Northern Mariana Islands as required by section 8 of the Schedule of Transitional Matters of the Constitution of the Northern Mariana Islands, or that you were born there after March 6, 1977. By "domiciled" we mean that you maintained a residence with the intention of continuing that residence for an unlimited or indefinite period, and that you intended to return to that residence whenever absent, even for an extended period. You must also give us proof of your citizenship if you are a citizen of the Trust Territory of the Pacific Islands of which the Marianas are a part.

(1) You can prove you were domiciled in the Northern Mariana Islands by giving us—

(i) Statements of civil authorities; or

(ii) Receipts or other evidence that show you were domiciled there.

(2) You can prove that you are a citizen of the Trust Territory of the Pacific Islands by giving us—

(i) Your identification card issued by the trust Territory of the Pacific Islands and a public or religious record of age which shows you were born in this territory;

(ii) Your voter's registration card;

(iii) A Chammoro Family Record showing your birth in the Trust Territory of the Pacific Islands; or

(iv) Your naturalization certificate.

(c) *What to do if you cannot give us the information listed in paragraph (a) or (b).* If you cannot give us any of the documents listed in paragraph (a) or (b), we may find you to be a citizen or a national of the United States if you—

(1) Explain why you cannot give us any of the documents; and

(2) Give us any information you have which shows or results in proof that you are a citizen or a national of the United States. The kind of information we are most concerned about shows—

(i) The date and place of your birth in the United States;

(ii) That you have voted or are otherwise known to be a citizen or national of the United States; or

(iii) The relationship to you and the citizenship of any person through whom you obtain citizenship.

(d) *What "United States" means.* We use the term "United States" in this section to mean the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, Swain's Island, and the Northern Mariana Islands.

§ 416.1604 How to prove you are lawfully admitted for permanent residence in the United States.

(a) *What you should give us.* You can prove that you are lawfully admitted for permanent residence in the United States by giving us—

(1) An Alien Registration Receipt Card (Immigration and Naturalization Service (INS) Form I–151 or I–551);

(2) A reentry permit; or

(3) An alien identification card issued by the government of the Northern Mariana Islands showing that you are admitted to the Northern Mariana Islands for permanent residence.

(b) *What to do if you cannot give us the information listed in paragraph (a).* If you cannot give us any of the documents listed in paragraph (a), we may find you to be lawfuly admitted for permanent residence in the United States if you—

(1) Explain why you cannot give us any of the documents; and

(2) Give us any information you have which shows or results in proof that you are lawfully admitted for permanent residence in the United States.

(c) *What "United States" means.* We use the term "United States" in this section to mean the 50 States, the District of Columbia, and the Northern Mariana Islands.

§ 416.1605 How to prove you are permanently residing in the United States under color of law.

(a) *What you should give us.* You can prove you are permanently residing in the United States under color of law by giving us—

(1) An Arrival-Departure Record (Immigration and Naturalization Service (INS) Form I–94) endorsed "Refugee-Conditional Entry" and showing the section of the Immigration and Nationality Act under which you were admitted;

(2) An Arrival-Departure Record (INS Form I–94) endorsed to show that you are paroled for an indefinite period under section 212(d)(5) of the Immigration and Nationality Act;

(3) An Arrival-Departure Record (INS Form I–94) endorsed "Voluntary Departure Granted—Employment Authorized" (this form and an INS letter are given to persons affected by a United States District Court order issued March 10, 1977);

(4) An Order of Supervision (INS Form I–220B) which shows you have been granted an indefinite stay of deportation;

(5) Any other letter or document from the Immigration and Naturalization Service showing that you have been granted either an indefinite voluntary departure or an indefinite stay of deportation; or

(6) Proof of your presence in the United States before June 30, 1948, and proof of your continuous residence thereafter.

(b) *What to do if you cannot give us the information listed in paragraph (a).* If you cannot give us any of the documents listed in paragraph (a), we may find you to be permanently residing in the United States under color of law if you—

(1) Explain why you cannot give us any of the documents; and

(2) Give us any information you have which shows or results in proof that you are permanently residing in the United States under color of law. We will contact the Immigration and

Naturalization Service to help establish that you meet this color of law rule.

(c) *What "United States" means.* We use the term "United States" in this section to mean the 50 States, the District of Columbia, and the Northern Mariana Islands.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 916

Partial Approval/Partial Disapproval of the Permanent Program Submission From the State of Kansas Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Proposed rule.

SUMMARY: On February 26, 1980, the State of Kansas submitted to the Department of the Interior its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of the submission is to demonstrate the State's intent and capability to administer and enforce the provisions of SMCRA and the permanent regulatory program regulations, 30 CFR Chapter VII. After providing opportunities for public comment and a thorough review of the program submission, the Secretary of the Interior has determined that the Kansas program partially meets the minimum requirements of SMCRA and the federal permanent program regulations. Accordingly, the Secretary of the Interior has approved in part and disapproved in part the Kansas program. Kansas will not assume primary jurisdiction for implementing SMCRA until its entire program receives approval.

DATE: Kansas has until November 3, 1980, to submit revisions of the disapproved portions of the program for the Secretary's consideration.

ADDRESSES: Copies of the Kansas program and the administrative record on the Kansas program are available for public inspection and copying during business hours at:

Office of Surface Mining Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

Kansas Mined Land Office, 107 W. 11th Street, Pittsburg, Kansas 66762.

Kansas Corporation Commission, Legal Office, State Office Bldg., 5th Floor, 915 Harrison, Topeka, Kansas 66612.

Office of Surface Mining Reclamation and Enforcement, Room 153, Interior South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone: (202) 343-4728.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone: (202) 343-4225.

SUPPLEMENTARY INFORMATION:

General Background on the Permanent Program

The environmental protection provisions of SMCRA are being implemented in two phases—the initial program and the permanent program—in accordance with Sections 501-503 of SMCRA, 30 U.S.C. 1251-1253. The initial program became effective on February 3, 1978, for new coal mining operations on non-federal and non-Indian lands which received state permits on or after that date, and was effectuated on May 3, 1978, for all coal mines existing on that date. The initial program rules were promulgated by the Secretary on December 13, 1977, under 30 CFR Parts 710-725 and 795, 42 FR 62639, *et seq.*

The permanent program will become effective in each state upon the approval of a state program by the Secretary of the Interior or implementation of a federal program within the state. If a state program is approved the state, rather than the federal government, will be the primary regulator of activities subject to SMCRA.

The federal regulations for the permanent program, including procedures for states to follow in submitting state programs and minimum standards and procedures the state programs must include to be eligible for approval, are found in 30 CFR Parts 700-707 and 730-865. Part 705 was published October 20, 1977 (42 FR 56064), and Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published March 13, 1979 (44 FR 15312-15463). Errata notices were published March 14, 1979 (44 FR 15485), August 24, 1979 (44 FR 49673-49687), September 14, 1979 (44 FR 53507-53509), November 19, 1979 (44 FR 66195) April 16, 1980 (45 FR 26001), June 5, 1980 (45 FR 37818) and July 15, 1980 (45 FR 47424). Amendments to the regulations were published October 22, 1979 (44 FR 60969), as corrected December 19, 1979 (44 FR 75143), December 19, 1979 (44 FR 75302-75303), December 31, 1979 (44 FR 77440-77447), January 11, 1980 (45 FR 2626-2629), April 16, 1980 (45 FR 25998-26001), May 20, 1980 (45 FR 33926-33927), June 10, 1980 (45 FR 39446-39447) and August 6, 1980 (45 FR 52306-52324). Portions of these regulations have been suspended, pending further rulemaking. *See* 44 FR 67942 (November 27, 1979), 44 FR 77447-77454 (December 31, 1979), 45 FR 6913 (January 30, 1980) and 45 FR 51547-51550 (August 4, 1980).

General Background on State Program Approval Process

Any state wishing to assume primary jurisdiction for the regulation of coal mining under SMCRA may submit a program for consideration. The Secretary of the Interior has the responsibility to approve or disapprove the submission.

The federal regulations governing state program submissions are found at 30 CFR Parts 730-732. After review of the submission by OSM and other agencies, as well as an opportunity for the state to make additions or modifications to the program, and an opportunity for public comment, the Secretary may approve the program unconditionally; approve it conditioned upon minor deficiences being corrected in accordance with a specified timetable; or disapprove the program in whole or in part. If any part of the program is disapproved, the state may submit revisions to correct the items that need to be changed to meet the requirements of SMCRA and the applicable federal regulations. If the revised program is also disapproved, SMCRA requires the Secretary of the Interior to establish a federal program in that state. The state may again request approval to assume primary jurisdiction after the Secretary implements the federal program.

The procedure and timetable for the Secretary's review of state programs was initially published March 13, 1979 (44 FR 15326), to be codified at 30 CFR Part 732.

As a result of litigation in the U.S. District Court for the District of Columbia, the deadline for states to submit proposed programs was extended from August 3, 1979, to March 3, 1980.

The Secretary, in reviewing state programs, is complying with the provisions of Section 503 of SMCRA (30 U.S.C. 1253), and 30 CFR 732.15. In reviewing the Louisiana program, the Secretary has followed the federal rules as cited above under "General Background on the Permanent Program" and as affected by three recent

decisions of the U.S. District Court for the District of Columbia in *In Re: Permanent Surface Mining Regulations Litigation.* That litigation is a consolidation of several lawsuits challenging the Secretary's permanent regulatory program.

Because of that complex litigation, the court issued its initial decision in two "rounds." The Round I opinion, dated February 26, 1980, denied several generic attacks on the permanent program regulations, but resulted in suspension or remanding of all or part of twenty-two specific regulations. The Round II opinion, dated May 16, 1980, denied additional generic attacks on the regulations, but remanded some 40 additional parts, sections or subsections of the regulations. The court also ordered the Secretary to "affirmatively disapprove, under Section 503 (of SMCRA), those segments of a state program that incorporate a suspended or remanded regulation" (Mem. Op., May 16, 1980, p. 49). However, on August 15, 1980, the court stayed this portion of its opinion. The effect of this stay is to allow the Secretary to approve state program provisions equivalent to remanded or suspended federal provisions in the three circumstances described in paragraph 1 below. Therefore, the Secretary is applying the following standard to the review of state program submissions:

1. The Secretary need not affirmatively disapprove state provisions similar to those federal regulations which have been suspended or remanded by the District Court where the state has adopted such provisions in a rulemaking or legislative proceeding which occurred either (1) before the enactment of SMCRA or (2) after the date of the Round II District Court decision, since such state regulations clearly are not based solely upon the suspended or remanded federal regulations. (3) the Secretary need not affirmatively disapprove provisions based upon suspended or remanded Federal rules if a responsible state official has requested the Secretary to approve them.

2. The Secretary will affirmatively disapprove all provisions of a state program which incorporate suspended or remanded Federal rules and which do not fall into one of the three categories in paragraph one, above. The Secretary believes that the effect of his "affirmative disapproval" of a section in the state's regulations is that the requirements of that section are not enforceable in the permanent program at the federal level to the extent they have been disapproved. That is, no cause of action for enforcement of the provisions, to the extent disapproved, exists in the federal courts, and no federal inspection will result in notices of violation or cessation orders based upon the "affirmatively disapproved" provisions. The Secretary takes no position as to whether the affirmatively disapproved provisions are enforceable under state law and in state courts. Accordingly, these provisions are not being pre-empted or suspended, although the Secretary may have the power to do so under Section 504(g) of SMCRA and 30 CFR 730.11.

3. A state program need not contain provisions to implement a suspended regulation and no state program will be disapproved for failure to contain a suspended regulation.

4. A state must have authority to implement all permanent program provisions of SMCRA, including those provisions of SMCRA upon which the remanded or suspended regulations were based.

5. A state program may not contain any provision that is inconsistent with a provision of SMCRA.

6. Programs will be evaluated only on those provisions other than the provisions that must be disapproved because of the court's order. The remaining provisions will be approved unconditionally, approved conditionally, or disapproved, in whole or in part in accordance with 30 CFR 732.13.

7. Upon promulgation of new regulations to replace those that have been suspended or remanded, the Secretary will afford states that have approved or conditionally approved programs a reasonable opportunity to amend their programs, as appropriate. In general, the Secretary expects that the provisions of 30 CFR 732.17 will govern this process.

A list of the regulations suspended or remanded as a result of the Round I and Round II litigation was published in the Federal Register on July 7, 1980 (45 FR 45604).

This list was made available for public review during a hearing in Pittsburg, Kansas on July 14, 1980, together with copies of the court's Round I and Round II opinions. A statement was also made available at the hearing explaining that since Kansas withdrew its regulations from its program submission on May 28, 1980, OSM is unable to provide a list of regulations in the Kansas program affected by the court's order.

To codify decisions on State programs, Federal programs, and other matters affecting individual States, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T will consist of Parts 900 through 950. Provisions relating to Kansas will be found in 300 CFR Part 916.

Background on the Kansas Program Submission

On February 26, 1980, OSM received a proposed regulatory program from the State of Kansas. The program was submitted by the Kansas Mined Land Conservation and Reclamation Board, the agency designated as the primary regulatory authority under the proposed Kansas permanent program. Notice of receipt of the submission initiating the program review was published in the March 4, 1980, Federal Register (45 FR 14152–14153) and in newspapers of general circulation in Kansas. The announcement invited public participation in the initial phase of the review process as it related to the Regional Director's determination of whether the submission was complete.

On April 10, 1980, the Regional Director held a public review meeting in Topeka, Kans., on the program submission and its completeness. The public comment period on completeness began on March 4, 1980, and closed April 10, 1980.

On April 18, 1980, the Regional Director published a notice announcing that he had determined the program to be incomplete (45 FR 26368). The notice specified that the program submission did not fulfill the content requirements for program submissions under 30 CFR 731.14. In accordance with 30 CFR 731.11(c), the Regional Director determined that a section-by-section comparison of the Kansas laws and regulations as required by 30 CFR 731.14(c) was missing from the proposed Kansas regulatory program. The program submission did set out the respective laws and regulations in a side-by-side format, but did not include a complete explanation of the differences between the State and Federal provisions or a discussion of the legal effect of the differences as required by 30 CFR 731.14(c).

After several discussions between Kansas and OSM during the review of the Kansas program, Kansas decided to make extensive revisions to its proposed regulations. Accordingly, on April 28, 1980, Kansas withdrew the regulations and the section-by-section analysis of those regulations from its program submission. Kansas has not, as of this date, submitted any new proposed or fully enacted regulations to OSM. As of June 9, 1980 (the 104th day after program submission), the Kansas proposed program contained the Mined-Land Conservation and Reclamation Act and other State laws in Volume I and the

narrative description of the proposed program in Volume III.

On June 16, 1980, the Regional Director published notice in the Federal Register (45 FR 40619–40621) and in newspapers of general circulation within the State that Kansas elected not to submit revised regulations and that the Kansas program submission was available for public review and comment. The notice also set forth procedures for the public hearing and comment period on the substance of the Kansas program.

On July 11, 1980, OSM invited public comment on whether there were any provisions in the Kansas submission which incorporated suspended and remanded Federal rules and which would have to be affirmatively disapproved to comply with the May 16, 1980, order of the court in *In Re: Permanent Surface Mining Regulation Litigation.* (45 FR *46820–46826*)

On July 14, 1980, the Regional Director held a public hearing on the Kansas submission in Pittsburg, Kansas. The public comment period on the Kansas permanent regulatory program ended on July 21, 1980.

On July 23, 1980 the Regional Director submitted to the Director of OSM, his recommendation that the Kansas program be approved in part and disapproved in part, together with copies of the transcripts of the public meeting and public hearing, written presentations, exhibits, copies of all public comments received and other documents comprising the administrative record.

On August 7, 1980, OSM published a notice formally disclosing the results of the solicitation of views of the Kansas submission from other federal agencies 45 FR 52408.

On August 22, 1980, the Director of OSM recommended to the Secretary that the Kansas program be approved in part and disapproved in part.

Elements Upon Which the Secretary Evaluates the Kansas Program For This Decision

In consideration of the matters discussed above under "General Background on State Program Approval Process", the Secretary hereby sets forth the elements of the proposed Kansas program upon which the findings and decisions are being made.

(a) The Kansas Mined-Land Conservation and Reclamation Act;

(b) The balance of the program submission received on February 26, 1980, except the proposed regulations and the section-by-section analysis.

In reaching his decision to approve in part and disapprove in part the Kansas program submission, the Secretary makes the following findings pursuant to Section 503 of SMCRA and 30 CFR 732.15.

1. The Secretary makes the following findings under the provisions of Section 503(a) of SMCRA:

(a) The Kansas Mined-Land Conservation and Reclamation Act (MLCRA) provides for the regulation of surface coal mining and reclamation operations on non-Indian and non-federal lands in Kansas in accordance with SMCRA with the exceptions noted below in findings 4(b), 4(g), 4(h), 4(i), and 4(p);

(b) The MLCRA provides sanctions for violations of Kansas laws, regulations or conditions or permits concerning surface coal mining and reclamation operations with the exception noted below in finding 4(h). These sanctions meet the requirements of SMCRA, including civil and criminal actions, forfeiture of bonds, suspensions, revocations, withholding of permits, and the issuance of cessation orders by the Kansas Mined-Land Conservation and Reclamation Board or its inspectors;

(c) The Kansas program submission describes a staffing and budget plan that would be sufficient; however, the Secretary has been informed by the Executive Director of the Mined Land Conservation and Reclamation Board that the Kansas Legislature has not authorized the proposed staff and budget. Accordingly, the Secretary is unable to find that the Mined Land Office has sufficient administrative and technical personnel or sufficient funding to enable Kansas to regulate surface coal mining and reclamation operations in accordance with the requirements of SMCRA. (*See* Kansas Administrative Record Document KS–51);

(d) The MLCRA provides for the effective implementation, maintenance, and enforcement of a permit system that meets the requirements of SMCRA for the regulation of surface coal mining and reclamation operations on non-Indian and non-federal lands within Kansas;

(e) The MLCRA has established a process for the designation of areas as unsuitable for surface coal mining in accordance with Section 522 of SMCRA, 30 U.S.C. 1272, except that the MLCRA does not contain provisions comparable to Section 522(e)(1) and (3), which prohibit mining on certain protected lands, such as parks, wilderness areas and historic sites. The Secretary finds that the Kansas program must include, and cannot be approved without, provisions comparable to 522(e)(1) and (3) of SMCRA;

(f) The MLCRA has established, for the purpose of avoiding duplication, a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with other federal and state permit processes applicable to the proposed operations;

(g) Kansas does not have fully enacted reglations consistent with regulations issued pursuant to SMCRA. The Secretary finds that the Kansas program must include, and cannot be approved without, regulations consistent with 30 CFR Chapter VII.

2. As required by Section 503(b)(1)–(3) of SMCRA, 30 U.S.C. 1253(b)(1)–(3), and 30 CFR 732.11–732.13, the Secretary has, through OSM:

(a) Solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other federal agencies concerned with or having special expertise pertinent to the proposal Kansas program;

(b) Solicited the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of the Kansas program that relate to air or water quality standards promulgated under the authority of the Clean Water Act as amended, (33 U.S.C. 1151–1175), and the Clean Air Act as amended, (42 U.S.C. 7401 *et seq.*). The EPA responded that it could not concur on the Kansas program because the State does not have fully enacted regulations necessary to carry out its responsibilities under the statutes cited above in this paragraph;

(c) Held a public review meeting in Topeka, Kansas, on April 10, 1980, to discuss the completeness of the Kansas program submission and subsequently held a public hearing in Pittsburg, Kansas, on July 14, 1980, on the substance of the program submission.

3. In accordance with Section 503(b)(4) of SMCRA, 30 U.S.C. 1253(b)(4), the Secretary finds the State of Kansas does not have the legal authority and does not have qualified personnel necessary for the enforcement of the environmental protection standards of SMCRA and 30 CFR Chapter VII because necessary regulations have not been enacted and because the proposed staff does not accurately reflect the staff expected to be needed to implement and administer the permanent program. See Finding 1(c) above.

4. In accordance with 30 CFR 732.15, the Secretary finds, on the basis of information in the Kansas program submission, public comments, testimony and written presentations at the public meeting and hearing, and other relevant information, that:

(a) The proposed Kansas permanent program does not provide for Kansas to meet the purposes of SMCRA and 30 CFR Chapter VII within its borders, because it does not include enacted regulations and for the additional reasons set forth in Findings 1(c), 1(e), 3, and 4(b)–4(s). Kansas has not proposed any alternative approaches in accordance with 30 CFR 731.13. This finding is made under 30 CFR 732.15(a).

(b) The Kansas Mined Land Conservation and Reclamation Board has the authority under the MLCRA (except as specifically set forth below in this paragraph) but does not have the authority under State regulatons, to implement, administer, and enforce all applicable requirements consistent with 30 CFR Chapter VII, Subchapter K. This finding is based on the fact that the necessary regulations have not been fully enacted. The Secretary further finds that Sections 49–411 and 49–412 of the MLCRA, which allow for deferred planting and delayed reclamation, are inconsistent with Section 515(b) (16) and (20) of SMCRA which require reclamation contemporaneously with mining. In accordance with 30 CFR 732.15(b)(1) the Secretary finds that the Kansas program must include, and cannot be approved without, regulations consistent with 30 CFR Chapter VII, Subchapter K. The Secretary disapproves Sections 49–411 and 49–412 of the MLCRA;

(c) The Kansas Mined Land Conservation and Reclamation Board has the authority under the MLCRA, but does not have the authority under State regulations, to implement, administer and enforce a permit system consistent with 30 CFR Chapter VII, Subchapter G and prohibit surface coal mining and reclamation operations without a permit issued by the Kansas Mined Land Conservation and Reclamation Board. In accordance with 30 CFR 732.15(b)(2) the Secretary finds that the Kansas program must include, and cannot be approved without, regulations consistent with 30 CFR Chapter VII, Subchapter G;

(d) The Secretary find that the Kansas Mined Land Conservation and Reclamation Board does not have the authority to regulate coal exploration, nor to prohibit coal exploration that does not comply 30 CFR Parts 776 and 815. In accordance with 30 CFR 732.15(b)(3), the Secretary finds that the program must include, and cannot be approved without, regulations consistent with 30 CFR Parts 776 and 815;

(e) The Kansas Mined Land Conservation and Reclamation Board has the authority under Section 49–405 of the MLCRA but does not have authority under state regulations to require that persons extracting coal incidental to government-financed construction maintain information on site consistent with 30 CFR Part 707. In accordance with 30 CFR 732.15(b)(4), the Secretary finds that the Kansas program must include, and cannot be approved without, provisions consistent with 30 CFR Part 707;

(f) The Kansas Mined Land Conservation and Reclamation Board has the authority under Section 49–405 and 49–405c of the MLCRA but does not have the authority under state regulations to enter, inspect and monitor all coal exploration and surface coal mining and reclamation operations on non-Indian and non-federal lands within Kansas consistent with the requirements of Section 517 of SMCRA and 30 CFR Chapter VII, Subchapter L. In accordance with 30 CFR 732.15(b)(5), the Secretary further finds that the Kansas program must include, and cannot be approved without, regulations consistent with 30 CFR Chapter VII, Subchapter L;

(g) The Kansas Mined Land Conservation and Reclamation Board has the authority in Sections 49–406, 49–407, and 49–415 of the MLCRA (with the exceptions noted specifically below in this paragraph), but does not have the authority under state regulations, to implement, administer and enforce a system of performance bonds and liability insurance or other equivalent guarantees in accordance with Sections 507(f), 509, 510 and 519 of SMCRA, and consistent with 30 CFR Chapter VII, Subchapter J. In accordance with 732.15(b)(6), the Secretary finds that the Kansas program must include, and cannot be approved without, provisions consistent with 30 CFR Chapter VII, Subchapter J. The Secretary further finds that Sections 49–413 and 49–414 of the MLCRA, which allow for bond release once the Mined Land Conservation and Reclamation Board has determined that a satisfactory vegetative cover has been established, are inconsistent with Section 515(b) (20) of SMCRA, which provides for a 5 or 10 year minimum period. The Secretary disapproves Section 49–413 and 49–414 of the MLCRA;

(h) The Kansas Mined Land Conservation and Reclamation Board has the authority under Sections 49–405c of the MLCRA but does not have the authority under State regulations to provide for civil and criminal sanctions, in accordance with Section 518 of SMCRA (30 U.S.C. 1268) and consistent with 30 CFR Part 845, The Secretary finds that Section 49–421 of MLCRA, relating to penalties, is inconsistent with SMCRA insasmuch as it does not authorize mandatory penalties for cessation orders as high as the $5,000 maximum contained in Section 518(a) of SMCRA. The Kansas statute limits such penalty to $250. In accordance with 30 CFR 732.15(b)(7), the Secretary finds that the Kansas program must include, and cannot be approved without, provisions in accordance with section 518 of SMCRA and consistent with 30 CFR Part 845 except to the extent remanded. The Secretary disapproves Section 49–421 of the MLCRA;

(i) The Kansas Mined Land Conservation and Reclamation Board has the authority (except as specifically set forth below in this paragraph) under Section 49–405 of the MLCRA but does not have the authority under state regulations, to issue, modify, terminate and enforce notices of violation, cessation orders and show-cause orders in accordance with Section 521 of SMCRA (30 U.S.C. 1271), and consistent with 30 CFR Chapter VII, Subchapter L, including the same or similar procedural requirements. Section 49–416 of the MLCRA is inconsistent in part with Section 521 of SMCRA (and Section 49–405 of the MLCRA) because it allows for discretionary permit revocation as distinguished from mandatory cessation orders under Section 521, and is therefore not as stringent. In accordance with 30 CFR 732.15(b)(8), the Secretary finds that the Kansas program must include, and cannot be approved without, provisions consistent with 30 CFR Chapter VII, Subchapter L. The Secretary disapproves Section 49–416 to the extent that it is inconsistent with Section 521 of SMCRA;

(j) The Kansas Mined Land Conservation and Reclamation Board has authority under Section 49–405b of the MLCRA (except as specifically set forth in this paragraph) but does not have the authority under state regulations, for the designation of areas as unsuitable for surface coal mining, consistent with 30 CFR Chapter VII, Subchapter F. Also, the Secretary finds that the MLCRA does not contain provisions comparable to Section 522(e)(1) and (3) of SMCRA. *See* Finding 1(e) above. In accordance with 30 CFR 732.15(b)(9), the Secretary finds that the Kansas program must include, and cannot be approved without, provisions consistent with 30 CFR Chapter VII, Subchapter F, and Section 522(e)(1) and (3) of SMCRA;

(k) The Kansas Mined Land Conservation and Reclamation Board has authority under the MLCRA but does not have authority under state regulations to provide for public participation in the development,

revision and enforcement of Kansas regulations and the Kansas program consistent with the public participation requirements of SMCRA and 30 CFR Chapter VII. The Kansas program does not provide for public participation in administrative proceedings as required by 30 CFR 840.15 and 43 CFR Part 4. The program fails to provide for award of costs and expenses including attorneys' fees relating to such proceedings. In accordance with 30 CFR 732.15(b)(10), the Secretary finds that the Kansas program must include, and cannot be approved without, regulations and program provisions consistent with 30 CFR Chapter VII and the public participation aspects of 43 CFR Part 4;

(l) The Kansas Mined Land Conservation and Reclamation Board has the authority under Sections 49–404, 49–405 and 49–406 of the MLCRA but does not have authority under state regulations to monitor, review and enforce the prohibition against indirect or direct financial interests in coal mining operations by employees of the Kansas Mined Land Conservation and Reclamation Board consistent with 30 CFR Part 705. In accordance with 30 CFR 732.15(b)(11) the Secretary finds that the Kansas program must include, and cannot be approved without, regulations consistent with 30 CFR Part 705;

(m) The Secretary finds, in accordance with 30 CFR 732.15(b)(12), that the Kansas Mined Land Conservation and Reclamation Board has authority under Section 49–405a of the MLCRA to require the training, examination, and certification of persons engaged in or responsible for blasting and the use of explosives in accordance with Section 719 of SMCRA. Kansas has no regulations on the training, examination, and certification of persons engaged in blasting. However, 30 CFR 732.15(b)(12) does not require a state to implement regulations governing such training, examination and certification until six months after federal regulations for these provisions have been promulgated. These federal regulations have not been promulgated as of this time;

(n) The Kansas Mined Land Conservation and Reclamation Board has the authority under Section 49–405 and 49–406 of the MLCRA but does not have authority under state regulations to provide for small operator assistance consistent with 30 CFR Part 795. The Secretary finds, in accordance with 30 CFR 732.15(b)(13), that the Kansas program must include, and cannot be approved without, regulations consistent with 30 CFR Part 795;

(o) The Kansas program does not provide for protection of employees of the Kansas Mined Land Conservation and Reclamation Board in accordance with the protection afforded federal employees under Section 704 of SMCRA. In accordance with 30 CFR 732.15(b)(14), the Secretary finds that the Kansas program must include a statutory or regulatory provision comparable to Section 704 of SMCRA;

(p) The Kansas Mined Land Conservation and Reclamation Board has authority under Sections 49–416a and 49–422a of the MLCRA (except as specifically set forth in this paragraph) but does not have authority under state regulations to provide for administrative and judicial review of state program actions in accordance with Sections 525 and 526 of SMCRA and with 30 FR Chapter VII, Subchapter L. Sections 49–422 and 49–422a of the MLCRA are inconsistent with each other (the retention of Section 49–422 may have been inadvertent) and neither Section 49–422 nor 49–422a of the MLCRA states whether judicial review of an administrative action will be *de novo* or on the record made before the Board. The Secretary has represented to the United States District Court for the District of Columbia that he will examine a state's proposal for *de novo* review to determine if the proposal contains safeguards adequate to prevent interference with an enforcement program consistent with SMCRA. The court has endorsed this flexible approach. Accordingly, to the extent that the Kansas program provides for trial *de novo* review of an administrative action such review must (1) insure preservation of the administrative record, (2) guarantee that any party to the *de novo* proceeding has the right to use the evidence contained in the administrative record whenever such evidence cannot otherwise be practicably obtained, (3) insure that any money paid into escrow is held until there is a final resolution of the controversy, (4) demonstrate that *de novo* review will not result in undue delay so as to interfere with the effectiveness of the enforcement program, (5) make *de novo* review available to any party to the administrative proceeding, (6) insure that *de novo* review is not available to any person who has failed to appear at or waived his right to an administative hearing, and (7) provide that the regulatory authority be represented by a licensed attorney at every stage of the judicial review proceedings. In accordance with 30 CFR 732.15(b)(15), the Secretary finds that the Kansas program must include, and cannot be approved without, regulations consistent with Sections 525 and 526 of SMCRA and 30 CFR Chapter VII, Subchapter L. The Secretary disapproves Section 49–422 and also disapproves Section 49–422a to the extent that it provides for a *de novo* judicial review but does not incorporate procedures adequately addressing the seven criteria enumerated above.

(q) Based on information in the Kansas program and other relevant information the Secretary is unable to find that the Kansas Mined Land Conservation and Reclamation Board has the authority to cooperate and coordinate with and provide documents and other information to the Office of Surface Mining under the provisions of 30 CFR Chapter VII. In accordance with 30 CFR 732.15(b)(16), the Secretary finds that the Kansas program must include, and cannot be approved without, regulations consistent with 30 CFR Chapter VII;

(r) In accordance with 30 CFR 732.15(c), the Secretary finds that the MLCRA contains provisions that would interfere with or preclude implementation of the provisions of SMCRA and 30 CFR Chapter VII, as noted in findings 4 (b), (g), (h), (i), (j), and (p) above;

(s) In accordance with 30 CFR 732.15(d) and based on information in the Kansas program and other relevant information the Secretary is unable to find that the Kansas Mined Land Conservation and Reclamation Board and other agencies having a role in the program have sufficient legal, technical and administrative personnel and sufficient funds to implement, administer, and enforce the provisions of the program, the requirements of 30 CFR 732.15(b), and other applicable state and federal laws as noted in findings 1(c) and 3 above.

Disposition of Comments

The following discussion concerns significant issues received by OSM and the Secretary regarding the Kansas Mined-Land Conservation and Reclamation Act (MLCRA). Comments were received on the Kansas regulations; however, because all the regulations were withdrawn, those comments are not relevant to this decision and will not be considered in the Secretary's initial decision. Accordingly, the Secretary is not discussing those comments in this Federal Register notice, but has forwarded them to Kansas for its consideration in promulgating revised regulations. If any regulations are included in Kansas' resubmission, they

will be available for public comment pursuant to 30 CFR 732.13.

1. Several commenters objected to the provision in Section 49–406 of the MLCRA that omits professional geologists from preparing or certifying cross-section maps or plans of affected lands. Section 507(b)(14) of SMCRA provides that cross-section maps or plans of affected lands be prepared by either a professional engineer or professional geologist. The omission of a professional geologist does not make the MLCRA inconsistent with SMCRA. No change is required; however, the State has indicated that it is preparing draft language for a statutory amendment to allow geologists to prepare maps and plans. (See Administrative Record No. KS–138.)

2. The Bureau of Mines (BOM) noted that MLCRA Section 49–422 conflicts with Section 49–422(a) and suggested that one or the other of the sections be repealed. Both sections appear to govern judicial review of administrative actions. The Secretary concurs and is disapproving Section 49–422 of the MLCRA.

3. The BOM commented that Section 49–408 of MLCRA contains provisions that may be different from the provisions in Section 515 of SMCRA. Section 49–408 declares that all waters in existence on mined land after reclamation is completed shall become public waters to the extent they may be stocked by and shall come under the law enforcement jurisdiction of the Kansas Fish and Game Commission. The Secretary finds that this is not inconsistent with the provisions of Section 515 of SMCRA.

4. The BOM noted that MLCRA Section 49–411 is in conflict with SMCRA in that it has a provision that would allow an operator not to reclaim an area being mined if he planted a different area. The Secretary concurs and is disapproving Section 49–411 of the MLCRA.

5. The BOM commented that Section 49–413 of the MLCRA is less stringent that SMCRA in that it provides for bond release once the Mined Land Board (Board) has determined that a satisfactory vegetative cover has been established rather than the 5–10 year minimum specified in Section 515(b)(20) of SMCRA. The Secretary concurs and is disapproving Section 49–413 of the MLCRA.

6. The BOM noted that Section 49–421 of the MLCRA regarding assessing penalties not to exceed $250 a day conflicts with 49–405(c) of the MLCRA. The Secretary agrees and is disapproving Section 49–421 of the MLCRA.

7. The BOM questioned the inclusion of a provision in Section 49–414 of the MLCRA that provides that the Board may authorize an operator to defer planting of vegetative cover for an affected area of land. The Secretary agrees that this provision is inconsistent with Section 519(a) of SMCRA and is disapproving Section 49–414 of the MLCRA.

8. The BOM noted that the MLCRA did not have a provision comparable to Section 521(a)(1) of SMCRA. Section 521(a) of SMCRA relates to federal inspections only. The Secretary has determined that Kansas need not have a comparable provision.

9. The BOM submitted the following additional comments on the MLCRA:

(a) That Section 49–406 does not include a provision comparable to SMCRA Section 506(c), which requires permits to be terminated three years after issuance if the permittee has not commenced the surface coal mining operations;

(b) That the provisions in Section 49–406(j) concerning maintaining bonds in successor operations are not as specific as Section 506(b) of SMCRA;

(c) That the statutory requirements for permit applications are not as complete as the requirements of SMCRA in the area of mining equipment, methods of mining, ownership information, and starting dates;

(d) That the MLCRA does not contain prime farmland provisions comparable to Sections 507(b) and 515(b)(7) of SMCRA, relating to contents of permit applications and performance standards;

(e) That the MLCRA does not include a requirement for: (1) filing a copy of a permit application with a county recorder, and (2) the filing of a blasting plan;

(f) That the MLCRA does not have provisions comparable to SMCRA Section 515(h), concerning informal review of inspections; and

(g) That the MLCRA does not have a provision comparable to Section 519(d) and (e) of SMCRA, which contain notification procedures for specific bond release activities.

The Secretary agrees with all of these comments. Rather than include specific provisions equivalent to all of the required provisions of SMCRA, the MLCRA grants broad statutory authority to the Board to promulgate regulations required to conform to the requirements of SMCRA and the Secretary's regulations. These BOM comments describe deficiencies in the MLCRA that may be corrected by regulations. If the resubmitted regulations from Kansas are consistent with the federal regulations relating to the issues identified above, no statutory changes will be required.

10. The U.S. Fish and Wildlife Service (FWS), issued a non-jeopardy biological opinion on the Secretary's approval of the proposed Kansas program. This biological opinion was provided in accordance with the Section 7 Interagency Cooperation Regulations (50 CFR 402, 43 FR 870) and the Endangered Species Act (ESA), as amended.

The biological opinion stated that the FWS had determined there were five endangered species known to occur in Kansas (bald eagle, peregrine falcon, whooping crane, black-footed ferret, and gray bat); however, the Kansas proposed program is not likely to jeopardize their continued existence.

11. The FWS also suggested the adoption of the following seven recommendations to prevent adverse impacts on the identified species that might result from implementation of the Kansas program:

a. The Mined Land Conservation and Reclamation Board (MLCRB), in consultation with the Kansas Fish and Game Commission (KFGC), should use its authority to further the purposes of the ESA by ensuring that programs for the conservation of the species are carried out.

b. If there is any disagreement between MLCRB and KFGC on the required content for the permit application, the permit application should be forwarded to the Office of Surface Mining (OSM) which should then request formal consultation under Section 7.

c. Funds should be authorized by OSM to be used by both MLCRB and KFGC.

d. The State program should include sections which correspond with the OSM rules and regulations that are applicable to federally listed endangered and threatened species.

The FWS further stated that if any new species are listed or proposed to be listed, the above stipulations should also be followed. In addition, the FWS indicated that the following stipulations should be included.

e. MLCRB, in consultation with KFGC, should ensure that any action carried out by the MLCRB is not likely to jeopardize the continued existence of any endangered or threatened species, or result in the destruction or adverse modification of critical habitat.

f. MLCRB shall confer with KFGC on any action which is likely to jeopardize the continued existence of any proposed to be listed endangered or threatened species, or result in the destruction or adverse modification of critical habitat.

g. Promptly, after the conclusion of consultation, KFGC should provide MLCRB a written statement setting forth KFGC's opinion, and a summary of the information on which the opinion is based, detailing how the MLCRB action affects the species or its critical habitat.

In response, OSM has forwarded a copy of the July 17, 1980, non-jeopardy opinion to the Kansas Mined Land Conservation and Reclamation Board and the State has been encouraged to consider the recommendations of the FWS. For purposes of state program approval, it is beyond the authority of the Secretary to require the Kansas Mined Land Conservation and Reclamation Board to implement Recommendations a, e, f, and g. Recommendation b requires the development of a procedure beyond the scope of the Act, the federal rules, and the June 10, 1980 Memorandum of Understanding (MOU) between FWS and OSM.

OSM will, however, during its monitoring phase evaluate the State's administration of its program and will consult with FWS regarding any necessary corrective actions.

Recommendation c is also beyond the scope of the MOU between OSM and FWS. Furthermore, OSM has no special funds available for this specific purpose. OSM concurs with Recommendation d. Kansas' revised regulations must be found to be consistent with 30 CFR Chapter VII.

12. The Environmental Policy Institute (EPI) suggested that sections of the Kansas Statute should be cross-referenced to the sections of SMCRA to which they pertain. This would impose an unwarranted burden on the State and is not a substantive requirement of SMCRA or the federal regulations. The Secretary therefore will not require a change in the Kansas program based upon this comment.

13. EPI commented that the Kansas program omits provisions comparable to Sections 507(b)(5) and 507(e) of SMCRA, concerning permit applications. The Secretary agrees as discussed in connection with comment no. 9 above. No change in the Kansas statute is required if Kansas regulations implement these provisions of SMCRA.

14. EPI commented that Sections 14-406 and 49-405(d) of MLCRA do not provide for adequate availability of documents for public inspection, and are not in accordance with Sections 507(e) and 517(f) of SMCRA. The Board's Field Office is located near the center of the coal-mining region and the location of documents there for public inspection meets the requirements of SMCRA.

15. EPI commented that the last sentence of Setion 49-405c(f) of MLCRA, concerning corporate violations, should refer to subsections (a) and (e) of that Section, rather than Subsections (a) and (c), as it presently reads. This appears to be a typographical error, and the Secretary expects, and Kansas has agreed, that it will be remedied (See Kansas Administrative Record No. KS-138.).

16. EPI commented that the MLCRA does not contain provisions comparable to Section 522(e)(3) of SMCRA, which prohibits mining on certain protected lands. The Secetary agrees that such a provision must be included in the Kansas program, and has so stated in finding 4(e).

17. EPI commented that Section 49-416a of MLCRA concerning review by the Board, should include language subjecting hearings under that Section to Section 554 of Title 5 of the U.S. Code. The federal Administative Procedures Act is not binding on the State of Kansas. The Secretary expects Kansas to submit its administrative procedures for Secretarial review as part of its resubmission.

18. EPI commented that the Kansas program omits a provision comparable to Section 526(e) of SMCRA, concerning judicial review of actions taken by the Board. The Secretary believes that this requirement is met by Section 49-422a of MLCRA, except for those deficiencies identified in finding 4(p).

19. EPI commented that Section 49-403(28) of MLCRA, which defines the term "surface coal mining operations", omitted the limitation of such operations to those where coal comprises more than 16⅔ percent, of the tonnage of minerals removed, when coal is extracted incidental to the extraction of other minerals. Since the omission of this limitation results in a broader definition of "surface coal mining operations", the Secretary considers it acceptable as a more stringent standard than the comparable definition contained in Section 701(28) of SMCRA.

20. EPI commented that the Kansas program omits any provision for the protection of employees of the Kansas Mined Land Conservation and Reclamation Board comparable to the protection afforded federal employees under Section 704 of SMCRA. The Secretary agrees that such protection is required in the Kansas program, and has so stated in finding 4(o).

21. EPI commented that Section 49-423 of MLCRA, concerning severability, should include the phrase "shall not be affected thereby", as found in Section 707 of SMCRA. The Secretary has concluded that Section 49-423 of MLCRA is identical in meaning to Section 707 of SMCRA, and no change is required.

Approval in Part/Disapproval in Part

The Kansas program is approved in part and disapproved in part. As indicated above, under the "Secretary's Findings," certain parts of the program meet the criteria for State program approval in 30 CFR 732.15 and certain parts of the program parts do not meet the criteria. Partial approval means that Kansas may revise and resubmit the disapproved portions of the program within 60 days of the effective date of the decision. The resubmission will then be reviewed and approved or disapproved under procedures in 30 CFR Part 732. The State will not assume primary jurisdiction to implement and enforce the permanent program under SMCRA until the entire program is approved.

The following program parts are approved:

The Kansas Mined-Land Conservation and Reclamation Act except for those nine sections set forth below: The Kansas program cannot be fully and unconditionally approved until these nine provisions are made consistent with SMCRA, or the inconsistency is otherwise solved in a manner which results in a program which fully implements the requirements of SMCRA and 30 CFR Chapter VII.

(1) Section 49-405c(f), relating to corporate violations.

(2) Section 49-411. Commencement of Reclamation, when; authorization for deferred or alternate planting; release of bonds, when.

(3) Section 49-412. Preplanning of reclamation for contiguous areas; plan for delayed reclamation.

(4) Section 49-413. Planting report; inspection and evaluation of vegetative cover; release of bond, when.

(5) Section 49-414. Deferred planting; release of bond, when.

(6) Section 49-416. Noncompliance with act or orders of board; notice of non-compliance; revocation of permit; forfeiture of bond; effect upon future permits. (Section 49-416 is disapproved to the extent it is inconsistent with Section 521 of SMCRA.)

(7) Section 49-421. Penalties.

(8) Section 49-422. Right of Appeal.

(9) Section 49-422a. Appeal of final order of board to district court. (Section 49-422a is disapproved if, and to the extent that, it provides for "de novo" judicial review of an administrative action.

The following program parts are disapproved:

(a) Those sections of the Kansas Mined-Land Conservation and Reclamation Act enumerated above.

(b) The non-statutory program provisions to:

(1) Implement, administer and enforce all applicable performance standards. (*See* Finding 4(b).)

(2) Implement, administer and enforce a permit system and prohibit surface coal mining and reclamation operations without a permit issued by the regulatory authority. (*See* Finding 4(c).)

(3) Regulate coal exploration and prohibit coal exploration that does not comply with 30 CFR Parts 776 and 815. (*See* Finding 4(d).)

(4) Require that persons extracting coal incidental to government-financed construction maintain information on-site. (*See* Finding 4(e).)

(5) Enter, inspect and monitor all coal exploration and surface coal mining and reclamation operations. (*See* Finding 4(f).)

(6) Implement, administer and enforce a system of performance bonds and liability insurance, or other equivalent guarantees. (*See* Finding 4(g).)

(7) Provide for civil and criminal sanctions for violations of state law, regulations and conditions of permits and exploration approvals including civil and criminal penalties. (*See* Finding 4(h).)

(8) Issue, modify, terminate and enforce notices of violations, cessation orders and show cause orders. (*See* Finding 4(i).)

(9) Designate areas as unsuitable for surface coal mining. (*See* Finding 4(j).)

(10) Provide for public participation in the development, revision and enforcement of state regulations and the state program. (*See* Finding 4(k).)

(11) Monitor, review and enforce the prohibition against indirect or direct financial interests in coal mining operations, by employees of the state regulatory authority. (*See* Finding 4(l).)

(12) Provide for small operator assistance. (*See* Finding 4(n).)

(13) Provide for the protection of state employees of the regulatory authority in accordance with the protection afforded federal employees. (*See* Finding 4(o).)

(14) Provide for administrative and judicial review of state program actions. (*See* Finding 4(p).)

(15) Cooperate and coordinate with and provide documents and other information to OSM. (*See* Finding 4(q).)

(c) The portion of the program describing the proposed staff and budget. (*See* Findings 1(c), 3, and 4(s).)

Effect of this Action

Kansas is not now eligible to assume primary jurisdiction to implement the permanent program. Kansas may submit additions or revisions to its proposed program to correct those parts of the program being disapproved within 60 days of this decision.

If no revised submission is made within 60 days, the Secretary will take appropriate steps to promulgate and implement a federal program for the State of Kansas. If the disapproved portions of the state regulatory program are revised and resubmitted within the 60-day time limit, the Secretary will have an additional 60 days to review the revised program, solicit comments from the public, the Administrator of the Environmental Protection Agency, the secretary of Agriculture and the heads of other federal agencies and to approve, disapprove, or condtionally approve the final Kansas program submission.

This approval in part and disapproval in part relates at this time only to the permanent regulatory program under Title V of SMCRA. The partial approval does not constitute approval or disapproval of any provisions related to the implementation of title IV of SMCRA, the abandoned mine lands (AML) reclamation program. In accordance with 30 CFR Part 884 (State Reclamation Plans), Kansas may submit a state AML reclamation plan at any time. Final approval of an AML plan, however, cannot be given by the Director of OSM until the State has an approved permanent regulatory program.

No coal development is anticipated on federal lands in the State. In the event that surface mining and reclamation operations on federal lands are proposed, however, the initial federal lands program will be governed by regulations in 30 CFR Part 211. When a state regulatory program is approved, the federal lands program, if one is necessary, will be governed by 30 CFR Part 740, or by 30 CFR Part 745 if Kansas chooses to enter into a cooperative agreement with the Secretary.

The Secretary intends not to promulgate rules in 30 CFR Part 916 until the Kansas program has been either finally approved or disapproved following opportunity for resubmission.

Additional Findings

The Secretary has determined that pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this approval in part.

Note.—The Secretary has determined that this document is not a significant rule under E.O. 12044 or 43 CFR Part 14, and no regulatory analysis is being prepared on this approval in part.

Dated: August 28, 1980.

James A. Joseph,

Acting Secretary of the Interior.

[FR Doc. 80-27101 Filed 9-2-80; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 916

Partial Approval/Partial Disapproval of the Permanent Program Submission From the State of Louisiana Under the Surface Mining Control and Reclamation Act of 1977 and Announcement of Public Comment Period on Program Resubmittal

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Proposed Rule. Partial approval/partial disapproval of Louisiana permanent regulatory program announcement of public comment period on program resubmittal.

SUMMARY: On January 3, 1980, the State of Louisiana submitted to the Department of the Interior its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of the submission is to demonstrate the State's intent and capability to administer and enforce the provisions of SMCRA and the permanent regulatory program regulations, 30 CFR Chapter VII.

After providing opportunities for public comment and conducting a thorough review of the program submission, the Secretary of the Interior has determined that the Louisiana program only partially meets the minimum requirements of SMCRA and the federal permanent program regulations.

Accordingly, the Secretary of the Interior has approved in part and disapproved in part the Louisiana program. Louisiana will not assume primary jurisdiction for implementing SMCRA unitil its entire program receives approval. Louisiana has requested that the Secretary consider immediately all presently enacted amendments and revisions upon publication of the Secretary's initial disapproval in this notice. The Secretary hereby opens the post-resubmission public comment period for fifteen days, ending September 17, 1980. Comments will be received only on those parts of the Louisiana program being disapproved as listed under the "Approval In Part/Disapproval In Part" section of this notice.

DATE: A public hearing on Louisiana's resubmission will be held on September

16, 1980. All comments must be received by 5:00 PM on September 17, 1980, at the Office of Surface Mining, Region IV address listed below under "Addresses."

ADDRESSES: Copies of the Louisiana program and the administrative record on the Louisiana program are available for public inspection and copying during business hours at:

Office of Surface Mining Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

Office of Surface Mining Reclamation and Enforcement, Room 153, Interior South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: (202) 343-4728.

Office of Conservation, 625 N. 4th Street, Baton Rouge, Louisiana 70804.

FOR FURTHER INFORMATION CONTACT:

Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, Reclamation and Enforcement.

U.S. Department of the Interior, South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: (202) 343-4225.

SUPPLEMENTARY INFORMATION:

General Background on the Permanent Program

The environmental protection provisions of SMCRA are being implemented in two phases—the initial program and the permanent program—in accordance with Sections 501–503 of SMCRA, 30 U.S.C. 1251–1253. The initial program became effective on February 3, 1978, for new coal mining operations on non-Federal and non-Indian lands which received state permits on or after that date, and was effectuated on May 3, 1978, for all coal mines existing on that date. The initial program rules were promulgated by the Secretary on December 13, 1977, under 30 CFR Parts 710–725, 42 FR 62639, *et seq.*

The permanent program will become effective in each state upon the approval of a state program by the Secretary of the Interior or implementation of a federal program within the state. If a state program is approved the state, rather than the federal government, will be the primary regulator of activities subject to SMCRA.

The federal regulations for the permanent program, including procedures for states to follow in submitting state programs and minimum standards and procedures the state programs must include to be eligible for approval, are found in 30 CFR Parts 700–707 and 730–865. Part 705 was published October 20, 1977 (42 FR 56064), and Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639).

The other permanent program regulations were published March 13, 1979 (44 FR 15321–15463). Errata notices were published March 14, 1979 (44 FR 15485), August 24, 1979 (44 FR 49673–49687), September 14, 1979 (44 FR 53507–53509), November 19, 1979 (44 FR 66195), April 16, 1980 (45 FR 26001), June 5, 1980 (45 FR 37818) and July 15, 1980 (45 FR 47424). Amendments to the regulations were published October 22, 1979 (44 FR 60969), as corrected December 19, 1979 (44 FR 75143), December 19, 1979 (44 FR 75302–75303), December 31, 1979 (44 FR 77440–77447), January 11, 1980 (45 FR 2626–2629), April 16, 1980 (45 FR 25998–26001), May 20, 1980 (45 FR 33926–33927), June 10, 1980 (45 FR 39446–39447) and August 6, 1980 (45 FR 52306–52324). Portions of these regulations have been suspended, pending further rulemaking. See November 27, 1979 (44 FR 67942), December 31, 1979 (44 FR 77447–77454), January 30, 1980 (45 FR 6913) and 45 FR 51547–51550, (August 4, 1980).

General Background on State Program Approval Process

Any state wishing to assume primary jurisdiction for the regulation of coal mining under SMCRA may submit a program for consideration. The Secretary of the Interior has the responsibility to approve or disapprove the submission. The federal regulations governing state program submissions are found at 30 CFR Parts 730–732. After review of the submission by OSM and other agencies, as well as an opportunity for the state to make additions or modifications to the program, and an opportunity for public comment, the Secretary may approve the program unconditionally; approve it conditioned upon minor deficiencies being corrected in accordance with a specified timetable, or disapprove the program in whole or in part. If any part of the program is disapproved, the state may submit revisions to correct the items that need to be changed to meet the requirements of SMCRA and the applicable federal regulations. If the revised program is also disapproved, SMCRA requires the Secretary of the Interior to establish a federal program in that state. The state may again request approval to assume primary jurisdiction after the Secretary implements the federal program.

The procedure and timetable for the Secretary's review of state programs was initially published March 13, 1979 (44 FR 15326), to be codified at 30 CFR Part 732.

As a result of litigation in the U.S. District Court for the District of Columbia, the deadline for states to submit proposed programs was extended from August 3, 1979, to March 3, 1980.

Section 732.11(d) required that if all required and fully enacted laws and regulations were not part of the program by November 15, 1979, the program be disapproved. Because the submission deadline had been changed to March 3, 1980, 30 CFR 732.11(d) was amended to provide that program submissions that do not contain all required and fully enacted laws and regulations by the 104th day following program submission will be disapproved pursuant to the procedures for the Secretary's initial decision in § 732.13 (45 FR 33927, May 20, 1980).

The Louisiana program was submitted to OSM on January 3, 1980. The 104th Day after January 3 was April 16, 1980.

In a February 27, 1980, notice announcing that the original Louisiana submission was incomplete, the Regional Director informed the public that this rule would apply in Louisiana. See 45 FR 12918, Col. 2

The Secretary's rules for the review of State programs implement his policy that industry, the public, and other agencies of government should have a meaningful opportunity to participate in his decisions. The Secretary also has a policy that a State should be afforded the maximum opportunity possible to change its program, when necessary, to cure any deficiencies in it.

To accomplish both of these policy objectives the Secretary determined that the laws and rules upon which the State bases its program, must be finalized at the beginning of the public comment period. By identifying the laws and rules in effect on the 104th day as the basis of his program approval decision, the Secretary assists commenters by informing them of program elements which should be reviewed. Meaningful public comment would be undermined if the program elements were constantly changing up until the day before the Secretary's decision.

The 104 day rule affords the State 3½ months following submission within which it may modify its laws and rules. In addition, after the Secretary's initial program decision, the States have additional opportunities to revise their laws and regulations.

All program elements other than laws and rules, including Attorney General's opinions, program narratives, descriptions and other information, may be revised by the State at any time prior to program approval. The Secretary will

provide opportunity for public comment on those changes, as appropriate.

The Secretary, in reviewing state programs, is complying with the provisions of Section 503 of SMCRA (30 U.S.C. 1253), and 30 CFR 732.15. In reviewing the Louisiana program, the Secretary has followed the federal rules as cited above under "General Background on the Permanent Program" and as affected by three recent decisions of the U.S. District Court for the District of Columbia in *In Re: Permanent Surface Mining Regulation Litigation.* That litigation is a consolidation of several lawsuits challenging the Secretary's permanent regulatory program.

Because of that complex litigation, the court issued its initial decision in two "rounds." The Round I opinion, dated February 26, 1980, denied several generic attacks on the permanent program regulations, but resulted in suspension or remanding of all or part of twenty-two specific regulations. The Round II opinion, dated May 16, 1980, denied additional generic attacks on the regulations, but remanded some 40 additional parts, sections or subsections of the regulations. The court also ordered the Secretary to "affirmatively disapprove, under Section 503 (of SMCRA), those segments of a state program that incorporate a suspended or remanded regulation" (Mem. Op., May 16, 1980, p. 49). However, on August 15, 1980, the court stayed this portion of its opinion. The effect of this stay is to allow the Secretary to approve state program provisions equivalent to remanded or suspended federal provisions in the three circumstances described in paragraph 1 below. Therefore, the Secretary is applying the following standard to the review of state program submissions:

Therefore, the Secretary is applying the following standards to the review of state program submissions:

1. The Secretary need not affirmatively disapprove state provisions similar to those federal regulations which have been suspended or remanded by the District Court where the state has adopted such provisions in a rulemaking or legislative proceeding which occurred either (1) before the enactment of SMCRA or (2) after the date of the Round II District Court decision, since such state regulations clearly are not based solely upon the suspended or remanded federal regulations. (3) The Secretary need not affirmatively disapprove provisions based upon suspended or remanded Federal rules if a responsible state official has requested the Secretary to approve them.

2. The Secretary will affirmatively disapprove all provisions of a state program which incorporate suspended or remanded Federal rules and which do not fall into one of the three categories in paragraph one, above. The Secretary believes that the effect of his "affirmative disapproval" of a section in the state's regulations is that the requirements of that section are not enforceable in the permanent program at the federal level to the extent they have been disapproved. That is, no cause of action for enforcement of the provisions, to the extent disapproved, exists in the federal courts, and no federal inspection will result in notices of violation or cessation orders based upon the "affirmatively disapproved" provisions. The Secretary takes no position as to whether the affirmatively disapproved provisions are enforceable under state law and in state courts. Accordingly, these provisions are not being pre-empted or suspended, although the Secretary may have the power to do so under Section 504(g) of SMCRA and 30 CFR 730.11.

3. A state program need not contain provisions to implement a suspended regulation and no state program will be disapproved for failure to contain a suspended regulation.

4. A state must have authority to implement all permanent program provision of SMCRA, including those provisions of SMCRA upon which the remanded or suspended regulations were based.

5. A state program may not contain any provision that is inconsistent with a provision of SMCRA.

6. Programs will be evaluated only on those provisions other than the provisions that must be disapproved because of the court's order. The remaining provisions will be approved unconditionally, approved conditionally, or disapproved, in whole or in part in accordance with 30 CFR 732.13.

7. Upon promulgation of new regulations to replace those that have been suspended or remanded, the Secretary will afford states that have approved or conditionally approved programs a reasonable opportunity to amend their programs, as appropriate. In general, the Secretary expects that the provisions of 30 CFR 732.17 will govern this process.

A list of the regulations suspended or remanded as the result of the Round I and Round II litigation was published in the Federal Register on July 7, 1980 (45 FR 45604). That notice also included a proposed list of Louisiana provisions incorporting the suspended or remanded federal regulations and an announcement of an additional comment period.

To codify decisions on State programs, federal programs, and other matters affecting individual states, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T will consist of Parts 900 through 950. Provisions relating to Louisiana will be found in 30 CFR Part 918.

Background on the Louisiana Program Submission

On January 3, 1980, OSM received a proposed regulatory program from the State of Louisiana. The program was submitted by the Louisiana Office of Conservation, the agency designated as the primary regulatory authority under the proposed Louisiana permanent program. Notice of receipt of the submission initiating the program review was published in the January 9, 1980, Federal Register (44 FR 1949–1950) and in newspapers of general circulation in Louisiana. The announcement invited public participation in the initial phase of the review process as it related to the regional director's determination of whether the submission was complete.

On February 14, 1980, the regional director held a public review meeting in Shreveport, Louisiana, on the program submission and its completeness began on January 9, 1980, and closed February 14, 1980.

On February 27, 1980, the regional director published notice in the Federal Register announcing that the program submission had been determined to be incomplete (45 FR 12917). The notice specified that the submission was missing the following required elements:

1. A copy of Act No. 553, enacted in 1978, amending the Louisiana Surface Mining Act of 1978, as required by 30 CFR 731.14(b).

2. A copy of the Louisiana Code of Civil Procedure, as required by 30 CFR 731.14(b).

On March 10, 1980, OSM Region IV received copies of items 1 and 2, plus a page that had been inadvertently omitted from the section-by-section comparison in the program submission. On receipt of those materials the regional director determined that the Louisiana program submission was complete as required by 30 CFR 732.11(b).

Amendments to the Louisiana Program

The State submitted amendments to its program submission on April 15 and 16, 1980. These amendments, which were in the form of proposed revisions to statutes and regulations, and which were not fully enacted, included:

(a) *Amendments to the LSMRA*

(1) An amendment to Paragraph (2) of Subsection B of Section 905 concerning judicial powers;

(2) Subsection B of Section 906, concerning mining permits;

(3) Paragraph (2) of Subsection A of Section 911 concerning application requirements;

(4) Subsections B and D of Section 18, concerning civil penalties;

(5) Paragraph (5) of Subsection D of Section 922, designating areas unsuitable for surface coal mining;

(6) Paragraph (2) of Subsection A of Section 911, concerning revision of permits;

(7) Subsection D of Section 925, Review by the Commissioner; and

(8) Section 929 concerning experimental practices.

(b) *Amendments to the Regulations Promulgated Under the LSMRA*

Amendments were proposed concerning:

(1) The definitions of 48 words and phrases used in the Louisiana regulations (Section 100.5);

(2) Applicability of the regulations (Section 100.11);

(3) Restriction of financial interests of employees (Sections 105.4, 105.17, and 105.19);

(4) Areas where mining is prohibited or limited (Sections 161.4, 161.11, 161.12, 164.11, 164.13, 164.23, and 164.25);

(5) Coal exploration and development (Sections 171.13, 171.23, 176.3, 176.5, 176.6, 176.11, and 176.13);

(6) Surface mining permit applications (Sections 178.15, 180.25, 180.31, and 180.33);

(7) Requirements for permits for special categories of mining (Sections 185.13 and 185.22);

(8) Regulations concerning public participation in the approval of permit applications and permit terms and conditions (Sections 186.17, 186.19, 186.21, 186.23, and 186.25);

(9) Administrative and judicial review of decisions by the Office of Conservation on permit applications (section 187.11);

(10) Permit reviews and renewals-transfer, sale and assignment of rights granted under permits (Sections 188.12, 188.13, 188.14, and 188.16);

(11) Small operator assistance program (Part 195);

(12) Amount and duration of performance bond—period of liability, bonding and insurance, and procedures, criteria and schedule for release of performance bond (Sections 205.13, 206.11, 206.14, 207.11, 207.12, and 208.12);

(13) Permanent performance standards for coal exploration and development operations, prohibiting water diversion into underground mines, criteria for valley fills and protection of underground mining (Sections 210.3, 210.4, 215.11, 215.15, 216.11, 216.14, 216.25, 216.42, 216.43, 216.55, 216.72, 216.79, 216.88, 216.116, 216.153, 216.181, 228.11, and 228.12);

(14) Inspection and enforcement relating to notices of violations, time for abatement of violations and suspension or revocation of permits (Sections 243.12 and 243.13);

(15) Costs and attorneys' fees, 30 CFR Chapter VII (Sections 246.1, 246.2, 246.3, 246.4, 246.5, 246.6, and 246.7);

(16) Special rules-applicable to surface coal mining review hearings and appeals (Part 244).

(17) Performance standards for in situ processing activities (Part 228).

On May 3, 1980, OSM received additional program amendments in the form of proposed modifications to the LSMRA and the regulations promulgated thereunder. The proposed modifications addressed the following subjects:

(a) *Amendments to the LSMRA*

An amendment was proposed to Section 906D(3) that would authorize regulations to assist an operator in the correction of problems that might prevent permit renewals before expiration of the permit terms.

(b) *Amendments to the Relations*

Amendments were proposed concerning:

(1) Definitions of seven words or phrases used in the regulations;

(2) Changes to the rule for existing structures to be used in coal exploration, development or surface coal mining and reclamation operations;

(3) Permitting requirements for permits for special categories of mining pursuant to Subchapter G of 30 CFR Chapter VII;

(4) Deletion of Section 205.13(d) of the Louisiana regulations that would have granted an exception to the period of liability for a performance bond;

(5) Amount and duration of performance bond—public access to the reclaimed area regarding release of a performance bond (Section 207.11(e)(5)).

The proposed amendments or revisions listed above were subsequently fully enacted. The amendments to regulations were enacted May 20, 1980 (6.L.R. 188), with certain errors that were corrected June 20, 1980 (6 L.R. 296), except that new Section 185.22(b), concerning permit applications for in-situ mining, was enacted as an emergency rule on June 20, 1980 (6 L.R. 252). The amendments to the LSMRA (House Bill 1277) were passed June 24, 1980, by the Louisiana Legislature and signed into law June 27, 1980, by Governor Treen (Act 121 of 1980).

On April 25, 1980, the regional director published notice in the Federal Register (45 FR 27955—27957) and in newspapers of general circulation within the State that the amended Louisiana submission was complete. The notice set forth procedures for the public hearing and comment period on the substance of the Louisiana program.

On May 28, 1980, a public hearing on the Louisiana submission was held in Baton Rouge, Louisiana, by the regional director. The public comment period on the Louisiana permanent regulatory program ended on June 4, 1980.

On July 7, 1980, the Director reopened the public comment period to afford interested persons an opportunity to review and comment on a proposed list of Louisiana provisions to be disapproved in accordance with the district court opinion discussed above under "General Background on the State Program Approval Process" and to provide a further opportunity for public comment on amendments to Louisiana's program submitted to OSM as of May 3, 1980 (45 FR 45604). The comments received as a result of that notice are discussed under "Disposition of Comments On List of Regulations that Must be Disapproved," below.

On June 4, 1980, the regional director submitted his recommendation to the Director of OSM that the Louisiana program be conditionally approved, together with copies of the transcript of the public meeting and the public hearing, written presentations, exhibits, copies of all public comments received, and other documents comprising the administrative record.

On August 26, 1980, the Director of OSM submitted his recommendation to the Secretary that the Louisiana program be approved in part and disapproved in part. The regional director also recommended that, in light of Louisiana's good faith efforts and corrections to all the deficiencies in its program before the date of this decision-making, the Secretary allow Louisiana to resubmit its revised permanent program by letter, making reference to this notice and its newly enacted laws and regulations. This would allow prompt reconsideration under 30 CFR 732.13(f).

Resubmittal of Material Intended to Satisfy Basis of Disapproval for those Parts of Programs Being Disapproved

Even though the proposed rules and legislative provisions listed above under "Amendments To The Louisiana Program" have been enacted, thay must be resubmitted as required by 30 CFR 732.13(f).

Louisiana, by telegram dated August 26, 1980, has requested that if the Secretary initially disapproves its permanent program submission, all persently enacted amendments and revisions be immediately considered resubmitted upon publication of the Secretary's initial decision. *See* administrative record document number LA-1T. The Secretary grants this request and hereby considers those portions of the revised Louisiana program which became fully enacted after April 16, 1980 to be resubmitted pursuant to 30 CFR 732.13(f). The Secretary opens the post-resubmission public comment period for 15 days, ending September 17, 1980.

Public Hearing

The OSM will hold a public hearing pursuant to 30 CFR 732.13(f) and 732.12 on September 16, 1980. The hearing will begin at 6:00 p.m. and continue on the day identified above until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and who wish to do so will be head at the end of scheduled speakers. The hearings will end after all people in the audience who wish to speak have been heard. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned unless they are present in the audience at the time all scheduled speakers have been heard. All comments on Louisiana's resubmittal should be delivered to:

Office of Surface Mining Reclamation and Enforcement, Region IV, 4th floor, Scaritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

Comments received after 5:00 P.M. on September 17, 1980, will not be considered in the Secretary's evaluation of Louisiana's resubmittal.

Copies of the resubmitted Louisiana program and the administrative record on the Louisiana program, and copies of public comments on the resubmittal are available for public inspection and copying during business hours at:

Office of Surface Mining Reclamation and Enforcement, Region IV, 4th Floor, Scarritt Building, 818 Grant Avenue, Kansas City, Missouri 64106.

The public hearing will be held in Baton Rouge, Louisiana at the:

Mineral Board Auditorium, First floor, State Land and Natural Resources Building, 625 N. 4th Street, Baton Rouge, Louisiana 70804.

Elements Upon Which the Secretary Evaluates the Louisiana Program For This Decision

In consideration of the matters discussed above under "General Backgound on State Program Approval Process," the Secretary sets forth the elements of the proposed Louisiana program upon which the findings and decisions below are being made.

(a)(1) Because of the 104 day rule promulgated May 20, 1980 (30 CFR 732.11(d), 45 FR 33927), only those statutory provisions and regulations that were fully enacted on or before April 16, 1980, are being considered as a basis for this decision.

(a)(2) All statutes and regulations not fully enacted on the 104th day including the presently enacted amendments and revisions listed under *Amendments To The Louisiana Program* above, are being discussed and considered in this notice, but cannot be approved now by the Secretary.

(b) The program narrative received January 3, 1980, as amended April 15 and 16 and May 3, 1980, has been reviewed and will be considered as a basis for this decision.

(c) The statutes and regulations that the Secretary is reviewing under (a) and (b) above include provisions that must be disapproved in accordance with the district court's order. However, the Secretary's decision is being made without regard to the effect of the disapproval of those regulations on the other parts of the program.

Secretary's Findings

1. In accordance with Section 503(a) of SMCRA, the Secretary finds that Louisiana has, subject to the exceptions listed in findings 1(a), 4(b) to (d), 4(g) to (l), 4(n) and 4(r), the capability to carry out the provisions of SMCRA and to meet its purposes in the following ways:

(a) The Louisiana Surface Mining and Reclamation Act (LSMRA) and the regulations adopted thereunder provide for the regulation of surface coal mining and reclamation operations on non-Indian and non-federal lands in Louisiana in accordance with SMCRA except that, prior to the 104th day after the program was submitted, Louisiana laws were inconsistent with SMCRA in the following ways:

(1) Section 922D(5) of the LSMRA adds the phrase, "unless waived by the proper authority or person," to the language of Section 522(e)(5) of SMCRA. This provision would allow a waiver of the restrictions on mining within 300 feet of certain buildings and parks, or within 100 feet of cemeteries. The Secretary determined that such waivers are inconsistent with SMCRA (44 FR 14994, March 13, 1979).

(2) The Louisiana Administrative Procedures Act, 49 LS 951-968, is controlling over the procedural provisions of the LSMRA due to 49 L.S. 966B, and conflicts with SMCRA in the following Section:

(i) Section 956(8) conflicts with the restrictions on confidentiality of information required by Sections 507(b)(16), 508(a)(12), 508(b), and 517(f) of SMCRA.

(ii) Sections 957 and 959 conflict with the required decision-making timeframes of Section 525 of SMCRA.

(iii) Section 964B conflicts with Section 526(a)(2) of SMCRA by allowing judicial review only in the "parish in which the agency is located" rather than also allowing review in the parish where the mine is located.

(iv) Section 964C conflicts with Sections 525(c) and 526(c) of SMCRA by allowing stays of agency actions without the required findings for temporary relief.

The above exceptions were the subject of recent Louisiana legislation: Act 121, H.B. 1277, June 27, 1980. Louisiana appears to have properly corrected these exceptions, but the Secretary must disapprove these portions of the Louisiana program pending resubmission under 30 CFR 732.13(f).

(b) The LSMRA provides sanctions for violations of Louisiana laws, regulations or conditions of permits concerning surface coal mining and reclamation operations, and these sanctions meet the requirements of SMCRA, including civil and criminal actions, forfeiture of bonds, suspensions, revocations, withholding of permits, and the issuance of cease-and desist orders by the Louisiana Office of Conservation or its inspectors;

(c) The Louisiana Office of Conservation has sufficient administrative and technical personnel and sufficient funds to enable Louisiana to regulate surface coal mining and reclamation operations in accordance with the requirements of SMCRA;

(d) Louisiana law provides for the effective implementation, maintenance, and enforcement of a permit system that meets the requirements of SMCRA for the regulation of surface coal mining and reclamation operations on non-Indian and non-federal lands within Louisiana;

(e) The LSMRA has established a process for the designation of areas as unsuitable for surface coal mining in accordance with Section 522 of SMCRA, 30 U.S.C. 1272;

(f) Louisiana has established, for the purpose of avoiding duplication, a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with other federal and state permit processes applicable to the proposed operations;

(g) Louisiana has fully enacted regulations consistent with regulations issued pursuant to SMCRA, subject to the exceptions discussed below in these findings.

2. As required by Section 503(b)(1)–(3) of SMCRA, 30 U.S.C. 1253(b)(1)–(3), and 30 CFR 732.11–732.13, the Secretary has, through OSM:

(a) Solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other federal agencies concerned with or having special expertise pertinent to the proposed Louisiana program (45 FR 41981, June 23, 1980).

(b) Obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of the Louisiana program that relate to air or water quality standards promulgated under the authority of the Clean Water Act as amended, (33 U.S.C. 1151–1175), and the Clean Air Act as amended, (42 U.S.C. 7401 *et seq.),* and;

(c) Held a public review meeting in Shreveport, Louisiana on February 14, 1980, to discuss the completeness of the Louisiana program submission and subsequently held a public hearing in Baton Rouge, Louisiana on May 28, 1980, on the substance of the program submission.

3. In accordance with Section 503(b)(4) of SMCRA, 30 U.S.C. 1253(b)(4), the Secretary finds the State of Louisiana has the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards of SMCRA and 30 CFR Chapter VII.

4. In accordance with 30 CFR 732.15, the Secretary finds, on the basis of information in the Louisiana program submission, including the section-by-section comparison of the Louisiana law and regulations with SMCRA and 30 CFR Chapter VII, public comments, testimony and written presentations at the public meeting and hearing and other relevant information, subject to the exceptions discussed in finding 1(a), 4(b) to (d), 4(g) to (l), 4(n) to (r) that:

(a) The Louisiana program provides for Louisiana to carry out the provisions and meet the purposes of SMCRA and 30 CFR Chapter VII within its borders and that Louisiana has not proposed any alternative approaches to the requirements of 30 CFR Chapter VII pursuant to 30 CFR 731.13;

(b) In accordance with 30 CFR 732.15(b)(1), the Secretary finds that the Louisiana Office of Conservation has the authority under Louisiana laws to implement, administer, and enforce all applicable requirements consistent with 30 CFR Chapter VII, Subchapter K. The Louisiana law and regulations on performance standards are consistent with SMCRA and those sections of 30 CFR Chapter VII, Subchapter K that have not been suspended by the Secretary or remanded by the District Court of the District of Columbia, except as discussed below:

(1) The following definitions in those Louisiana regulations, as enacted by the 104th day, are inconsistent with the Secretary's definitions of the same terms for use in the Subchapter K performance standards:

(i) Section 100.5(9). The definition of "approximate original contour" is inconsistent with 30 CFR 701.5 because it omits the phrase "and coal refuse piles."

(ii) Section 100.5(15). The definition of "coal mining operation" should not be made applicable to Subchapter K. It is proper for use only in Part 105 of the Louisiana program, but its position in Section 100.5 implies that it applies to all parts of the regulations.

(iii) Section 100.5(37). The definition of "fugitive dust" is improperly qualified by the phrase "and is carried beyond the boundaries of the area of mining or related activities," making it inconsistent with 30 CFR 701.5.

(iv) Section 100.5(58). The definition "land use" is inconsistent with 30 CFR 701.5 because it omits the specific subcategories the Secretary has recognized for use in Subchapters G and K.

(v) Section 100.5(78). The definition of "prime farmland" is inconsistent with 30 CFR 701.5 because it fails to incorporate the concept of "historically used for cropland".

(vi) Section 100.5(93). The definition of "roads" is inconsistent with 30 CFR 701.5 because it omits the specific subcategories of the Secretary's definition. However, the Secretary's definition was remanded by the district court on May 16, 1980, and pursuant to the court's order, the Louisiana definition, based in part on the Secretary's must be disapproved.

(vii) Section 100.5(116). The definition of "temporary diversion" is inconsistent with 30 CFR 701.5 because it omits the phrase "or surface coal mining and reclamation operations."

(2) Sections 101.11(c)(1) (ii), (iii) and (iv) are not consistent with 30 CFR 701.11(d)(1) (ii), (iii) and (iv) concerning the applicability of Subchapter K to existing structures More particularly;

(i) Section 101.11(c)(1)(ii) is not consistent with 30 CFR 701.11(d)(1)(ii) because it omits the proviso that the performance standards of 30 CFR Chapter VII, Subchapter B, be "at least as stringent" as the comparable standard of 30 CFR Chapter VII, Subchapter K, before an exemption can be considered under Section 101.11(c)(1)(ii). Additionally, the reference to "Subchapter B" in this section is incorrect because there is no Subchapter B in the Louisiana regulations.

(ii) Section 101.11(c)(1)(iii) should be made consistent with 30 CFR 701.11(d)(1)(iii). This inconsistency could be cured by changing the first reference to "Subchapter K" to "Subchapter B of 30 CFR Chapter VII" and by including the clause "which is less stringent than the comparable performance standards of Subchapter K of 30 CFR Chapter VII" immediately after this new reference to Subchapter B.

(iii) Section 101.11(c)(1)(iv) is not consistent with 30 CFR 701.11(d)(1)(iv). This inconsistency could be cured by changing "Subchapter B" to "Subchapter B of 30 CFR Chapter VII" because Louisiana has no "Subchapter B".

(3) Section 216.43. The regulations do not include the provision of 30 CFR 816.43(g) prohibiting water diversion into underground mines except in accordance with 30 CFR 816.55. These provisions apply to all underground mines, not just coal mines.

(4) Section 216.72(b). The regulations do not include provisions comparable to 30 CFR 816.72(b)(4), (c), (d), (e), (f), and (g) concerning criteria for valley fills.

(5) The regulations do not have provisions comparable to 30 CFR 816.79 which applies to both coal and other underground mines.

(6) The regulations are inconsistent with 30 CFR 816.88 concerning the return of coal processing waste to underground works, because they have no comparable provision.

(7) Section 216.105(b). The regulations do not contain a provision comparable to § 816.105(b)(2), concerning the disposal of excess spoil.

(8) Section 216.116. The regulations do not have a provision comparable to 30 CFR 816.116(b)(1)(i), pertaining to the evaluationn of revegetation responsibility.

(9) To be consistent with other parts of the regulations, the words "and development operations" should be added in Section 210.4(b) after "coal exploration" so that it is clear that these operations, as well as exploration operations and surface coal mining operations, are to comply with the performance standards.

(10) In addition to paragraphs (1)–(9), above, the Secretary makes the following findings with respect to performance standards:

Special performance standards on concurrent surface and underground coal mining, auger mining, operations in alluvial valley floors, mountaintop removal, and multiple seam mining on steep slopes are not included in the Louisiana program. The Secretary finds that these performance standards are not presently necessary in Louisiana. The LSMRA, Section 906E, prohibits underground mining and auger mining. That section requires persons wishing to start an underground or auger mine to submit an application 36 months prior to the time operations are planned to begin so that legislation can be considered by the Louisiana legislature and regulations promulgated as necessary to comply with SMCRA. Section 906E eliminates the need for rules on underground mining, auger mining, and concurrent underground and surface mining, since no such mining can occur until Louisiana adopts, and the Secretary approves, provisions relating to these three mining categories. The special performance standards for alluvial valley floors are not applicable in Louisiana because the State is east of the 100th meridian (See 30 CFR 785.19(a)). SMCRA does not require the State program to have an equivalent to 30 CFR 826.16, concerning multiple seam mining on steep slopes, because that Section allows a variance to the requirement to restore slopes to approximate original contour. The Secretary finds that the absence of such a section makes the Louisiana program "more stringent" than 30 CFR Chapter VII and therefore consistent with the federal regulatory program under Section 505 of SMCRA and 30 CFR 730.11(b). Mountaintop removal regulations, consistent with 30 CFR Part 824, are also not necessary in the Louisiana program. The absence of these regulations makes all operations subject to the general requirement of 30 CFR 816.101(b) that land be restored to its approximate original contour.

(c) In accordance with 30 CFR 732.15(b)(2), the Secretary finds that the Louisiana Office of Conservation has the authority under Louisiana laws and regulations, as enacted by the 104th day after program submittal, and the Louisiana program includes provisions to implement, administer and enforce a permit system and prohibit surface coal mining and reclamation operations without a permit issued by the regulatory authority consistent with those sections of 30 CFR Chapter VII, Subchapter G, that are not affected by the district court decision except as follows:

(1) The definition of "land use" in Section 100.5(58) is inconsistent with the 30 CFR 701.5 definition of that term for use in Subchapter G. *See* exception (1)(iv) to finding 4(b) above.

(2) The definition of "permittee" in Section 100.5(75), for use in Subchapters G and L, is inconsistent with the Secretary's definition in 30 CFR 701.5 because it fails to include un-permitted operators who are required to have a permit in addition to those operators who do have a permit.

(3) The regulations do not define the following terms for use in Subchapter G:

(i) Existing structures

(ii) Complete application

(4) The regulations do not have provisions consistent with 30 CFR 785.22 addressing in situ coal processing permit applications and lack performance standards comparable to 30 CFR Part 828. Louisiana stated in its program submission, page (c)–339 and (c)–587, that in situ processing is not contemplated for Louisiana at this time. However, the Secretary finds that in situ coal processing activities presently exist in the neighboring Texas lignite fields and are possible in the nearby Louisiana lignite fields. Furthermore, the LSMRA does not prohibit in situ coal extraction as it does underground coal mining. Therefore in situ extraction must be regulated consistent with 30 CFR Chapter VII because it is a type of "surface coal mining operation" as that term is defined in Section 701(28) of SMCRA and Section 904V(A) of the LSMRA.

(5) Section 186.17(c) does not require the applicant's underground coal mines to be considered in determining compliance with requirements at other mines, as is required by 30 CFR 786.17(c).

(6) Section 186.19(d) concerning consideration of areas under study for designation of areas unsuitable for surface coal mining does not include a provision consistent with 30 CFR 786.19(d)(2).

(7) Section 186.19(d)(2) references Section 161.11(e) or (f) rather than Section 161.11(a), (b), (f), or (g). To be consistent with and as stringent as the federal counterpart, the Louisiana program must make such references.

(8) Section 186.19(d)(3) references Section 161.12(c) rather than Section 161.12(d).

(9) Section 186.19(d)(4), which references Sections 161.11(d) and 161.12(d), should be changed to reference Sections 161.11(e) and 161.12(e).

(10) Section 186.19(e) referecnes Section 161.11(b) rather than Section 161.11(c).

(11) Section 186.19 omits a provision comparable to 30 CFR 786.19(f), concerning severed mineral estates, as the federal counterpart requires.

(12) The Louisiana regulations omit provisions consistent with 30 CFR 786.21 because exploration and development operations may leave "existing structures."

(13) Section 187.11(a)(4) should be modified to change the 60-day time frame to 30 days to be consistent with 30 CFR 787.11(b)(4), which assures a timely decision for both the applicant and the public.

(14) Section 188.12(a)(1) does not specify the parameters of those changes that constitute significant departures, as required by 30 CFR 788.12(a)(1).

(15) The proposed regulations also omit the following provisions not necessary in Louisiana.

(i) The regulations have no provision comparable to 30 CFR 701.11, to provide for continued operations for eight months after the date of approval of the program. The Secretary finds that this provision is not applicable in Louisiana because there are no existing surface coal mining operations in that State.

(ii) The Louisiana program includes no detailed permit requirements for concurrent surface and underground mining, auger mining, operations in alluvial valley floors, mountaintop removal, and multiple seam mining on steep slopes. The Secretary finds that these pemit requirements are not applicable in Louisiana. See Finding 4(b)(10) above.

(d) In accordance with 30 CFR 732.15(b)(3), the Secretary finds that Section 905 of the LSMRA and Sections 176 and 215 of the Louisiana Regulations provide Louisiana with the authority to regulate coal exploration comprable to 30 CFR Parts 776 and 815 and to prohibit coal exploration that does not comply with 30 CFR Parts 776 and 815. Part 176 does differ from 30 CFR Part 776 in that it divides the federal concept of coal exploration into two categories: (1) Exploration operations and (2) development operations. Several commenters suggested that the second category violates Section 512 of SMCRA by allowing test pits as large as ten acres from which up to 25,000 tons of coal can be removed for testing purposes. The Secretary finds that aspect of Part 176 of the Louisiana regulations consistent with Section 512 of SMCRA and 30 CFR Part 776. For further discussion see the disposition of comment number five under "Disposition of Comments," below. However, the Secretary finds that as of the 104th day, the enacted regulations under Parts 176 and 215 were not

consistent with 30 CFR Parts 776 and 815 and must disapprove the Louisiana regulations to the following extent:

(1) The concepts of "coal exploration" and "exploration operations", in Section 100.5(14), do not cover the entire concept of "coal exploration" defined by the Secretary in 30 CFR 701.5. In particular, mapping and environmental data gathering activities are not included. Nor are they included in the concept of "development operations", Section 100.5(22). Therefore these activities are not regulated in Part 176 consistent with 30 CFR Part 776. The Secretary notes, however, that on May 20, 1980, Louisiana enacted a new Section 100.5(149) defining "Data Gathering Activities", and new Sections 176.5 and 176.6 to regulate such activities. Because these amendments were not enacted before the 104th day after program submission the Secretary cannot pass final judgment on them, but they preliminarily appear to accomodate the Secretary's requirements.

(2) The regulations did not contain a definition of "substantially disturb" consistent with 30 CFR 701.5.

(3) In Section 176.3, the phrase "primarily in order" qualifies the concept that coal development operations are only for exploration and testing purposes. The Secretary's approval of the development operations concept in this finding is based, in part, on the understanding that if regular commercial use is made of the excavated coal, the operation must be treated as a full "surface coal mining operation". Therefore the qualifying phrase must be dropped.

(4) In Section 176.11(b), the phrase "reclaim the affected areas in accordance" qualifies the duty to fully "comply" with Section 915 of LSMRA and the Louisiana regulations. 30 CFR 776.11(c) and 776.15(a) require full compliance with 30 CFR Part 815, which includes performance standards in addition to final reclamation. Section 176.11(b) if not amended, could be interpreted to require only after-the-fact reclamation rather than compliance with Part 215 during development operations.

(5) The time period for decisions in Section 176.13(a) allows a decision on an application for development operations prior to the close of the comment period prescribed by Section 176.12(b). This section should provide that the Commissioner will act upon a completed application within some reasonable period *after* the close of the comment period.

(6) Section 215.11(a) does not accurately reflect that Louisiana requires a permit for coal exploration and development operations.

(e) In accordance with 30 CFR 732.15(b)(4), the Secretary finds that the Louisiana Office of Conservation has the authority under Louisiana laws and the Louisiana program includes provisions to require that persons extracting coal incidental to government-financed construction maintain information on-site consistent with 30 CFR Part 707. These provisions are incorporated in Part 107 of the Louisiana regulations.

(f) In accordance with 30 CFR 732.15(b)(5), the Secretary finds that the Louisiana Office of Conservation has the authority under Section 917 of the LSMRA and the Louisiana program includes in Part 242 of the regulations, provisions for entry, inspection and monitoring of all coal exploration and surface coal mining and reclamation operations on non-Indian and non-federal lands within Louisiana consistent with the requirements of Section 517 of SMCRA ad Subchapter L of 30 CFR Chapter VII.

(g) The Louisiana Office of Conservation has the authority under Louisiana laws and the Louisiana program, prior to the 104th day, included enacted provisions for implementation, administration and enforcement of a system of performance bonds and liability insurance, or other equivalent guarantees, consistent with 30 CFR Chapter VII, Subchapter J except as follows:

(1) The Louisiana regulations do not define the following terms that are used in Subchapter J and deemed necessary by the Secretary: "collateral bond," "common-size comparative balance sheet," "working capital," "common-size comparative income statement," "national earnings," "working capital," "current assets," "current liabilities," "current ratios," "acid-test ratio," "quick assets," "cash," "liquidity ratio," "asset ratio," "return on investment," "net worth," "net profit," and "capital assets."

(2) Section 205.13(d) of the regulations repeats the exception from revegetation requirements for a long term intensive agricultural land use found in 30 CFR 805.13. That rule was suspended by OSM because the exception conflicts with SMCRA. *See* 44 FR 67946, Nov. 27, 1979. Because of the district court's May 16, 1980 ruling, Section 205.13(d) must be disapproved to the extent of the exception. That section, however, was deleted in the rule amendments enacted May 20, 1980 (6 L.R. 185) as corrected June 20, 1980 (6.L.R. 296).

(3) Section 206.11, concerning the form of performance bonds, is disapproved as it was originally enacted and submitted. The section differed substantially from 30 CFR 806.11 and did not provide an adequate explanation of the many differences in terminology. In addition, there were more particular problems within Section 206.11, as follows:

(i) Section 206.11(b)(5) did not require an applicant seeking the right to self-bond to show a history of financial solvency and continuous operation for at least ten years, thereby being inconsistent with 30 CFR 806.11(b)(5).

(ii) Section 206.11(b)(5)(v) did not include provisions consistent with 30 CFR 806.11(b)(5)(v)(A) and (B) regarding the minimum content requirements of a financial statement.

(iii) Section 206.11(c) states that the Commissioner of the Office of Conservation can approve an alternative bonding system. However, only the Secretary of the Interior can approve an alternative bonding system and it must be submitted as part of the proposed program.

The Secretary notes that Louisiana has apparently corrected deficiencies in paragraphs (3)(i), (3)(ii) and (3)(iii) by the amendments to Section 206.11 enacted May 20 and June 20, 1980. However, the Secretary cannot officially consider the amendments until they are resubmitted pursuant to 30 CFR 732.13(f).

(4) Section 206.14(d) is inconsistent with the Federal rules because no alternative self-insurance requirements were included in the proposed program for review by the Secretary. Only the Secretary can approve an alternative system to 30 CFR 806.14.

(5) Section 207.11(e) must be disapproved to the extent that it does not provide for citizen access to mining areas during informal conferences on bond release because of the district court's Round I (Feb. 26, 1980) and Round II (May 16, 1980) decisions.

(6) Section 208.12(c). The phrase "with respect to protection of the hydrologic balance" must be disapproved because it was suspended on the grounds that it is inconsistent with SMCRA (See 44 FR 67943, Nov. 27, 1979) and because of the district court's May 16, 1980 decision.

Louisiana enacted amendments to Parts 205–209 of its regulations on May 20, 1980 (6 L.R. 185–87) and June 20, 1980 (6 L.R. 296) to address the exceptions listed above. The Secretary has preliminarily determined that these corrections, enacted after the 104th day following program submission, appear to give Louisiana provisions consistent with 30 CFR Chapter VII, Subchapter J. However, the Secretary may only approve these provisions after resubmission under 30 CFR 732.13(f).

(h) In accordance with 30 CFR 732.15(b)(7), the Secretary finds that the

Louisiana Office of Conservation has the authority under Section 918 of the LSMRA, and Part 245 of the Louisiana regulations provides for civil and criminal sanctions for violations of Louisiana law, regulations and conditions of permits and exploration approvals, including civil and criminal penalties, in accordance with Section 518 of SMCRA (30 U.S.C. 1268) and consistent with 30 CFR Part 845, including the same or similar procedural requirements. Section 918 of the LSMRA requires that interest paid by the state on civil penalty escrow money be returned to operators at the rate of six percent per year. Section 518(c) of SMCRA requires that such interest be calculated at the prevailing U.S. Department of Treasury rate or six percent, whichever is greater. The Secretary accepts this difference and its counterpart in Section 245.20 of the Louisiana regulations because the Secretary believes the State provision is more stringent than the federal requirement.

The Louisiana regulations do not contain the procedural requirement of 30 CFR 845.19(a) to disallow the facts of the violation from being contested during an appeal if they have been previously decided in a formal review. The Secretary finds the Louisiana procedure is inconsistent with the federal regulations because it does not provide that the fact of a violation may not be further contested in an administrative proceeding once it has been upheld in a formal administrative review proceeding. However, Louisiana enacted an emergency rule amending its procedure to be consistent with 30 CFR 845.19(a). (*See* 6 L.R. ——, August 20, 1980). The Secretary cannot consider this amendment until it is considered as part of Louisiana's resubmission under 30 CFR 732.13(f). For further discussion see paragraph 42 under "Disposition of Comments."

(i) In accordance with 30 CFR 732.15(b)(8), the Secretary finds that the Louisiana Office of Conservation has the authority under Section 921 of the LSMRA and Parts 242 through 245 of the Louisiana regulations contain provisions to issue, modify, terminate and enforce notices of violation, cessation orders and show cause orders in accordance with Section 521 of SMCRA (30 U.S.C. 1271) and with 30 CFR Chapter VII, Subchapter L, including the same or similar procedural requirements, except as follows:

(1) The definition of "permittee" in Section 100.5(75) does not include persons who are required to have a permit, but do not, and is therefore inconsistent with 30 CFR 701.5 and Subchapter L. Louisiana must be able to take enforcement actions against "wildcat" operators.

(2) Section 243.12(a) is inadequate because it does not make certain that violations of the conditions of a development operations permit will be subject to notices of violations or cessation orders. Since development operations are part of the concept of "exploration" as used in 30 CFR 843.12(a)(1), they must be subject to enforcement actions.

(3) Section 243.12 is inconsistent with 30 CFR 843.12(b)(3) because it has no provisions requiring a statement of a reasonable time for abatement in notices of violations.

(4) Section 243.13(d) is inconsistent with 30 CFR 843.13(d) to the extent that the operator's opportunity for a hearing is not mandatory when timely requested.

(j) In accordance with 30 CFR 732.15(b)(9), the Secretary finds that the Louisiana Office of Conservation has authority under Section 922 of the LSMRA and Subchapter F of the Louisiana regulations, as in effect the 104th day after program submittal, and the Louisiana program contains provisions for the designation of areas as unsuitable for surface coal mining consistent with 30 CFR Chapter VII, Subchapter F except as follows:

(1) The Louisiana regulations do not define "valid rights existing prior to August 3, 1977," from Section 922D of LSMRA, to be consistent with 30 CFR 761.5, as affected by the district court's opinion of February 26, 1980, p. 20.

(2) Section 161.12(g) uses the word "suitable" rather than "unsuitable" preceding the cross reference to Parts 162 and 164.

(3) The regulations have no provision consistent with 30 CFR 761.12(h), providing administrative and judicial review of decisions concerning valid existing rights and the existence of mines on August 3, 1977. However, the Secretary finds that no surface coal mining operations existed in Louisiana on August 3, 1977. Therefore, only the part of 30 CFR 761.12(h) concerning valid existing rights needs changing to meet the federal counterpart.

In its amendments enacted May 20 and June 20, 1980 (6 L.R. 177–198; 6 L.R. 296–297) Louisiana preliminarily appears to have corrected these problems, but the Secretary cannot consider the amendments in this decision because they were not enacted by the 104th day after program submission.

(k) In accordance with 30 CFR 732.15(b)(10), the Secretary finds that the Louisiana Office of Conservation has authority under the Louisiana Administrative Procedures Act, LSMRA, and the Louisiana program to provide for public participation in the development, revision and enforcement of Louisiana regulations and program, and that authority has been implemented consistent with the public participation requirements of SMCRA and 30 CFR Chapter VII except as follows:

(1) The regulations do not provide a mechanism for the public to petition to initiate rulemaking as required by 30 CFR 700.12.

(2) The regulations do not specify that public records, under the program provisions, will be retained at the Office of Conservation office closest to the area involved, as required by 30 CFR 700.14(a).

(3) The regulations do not contain provisions for the award of costs and attorneys' fees, consistent with 43 CFR 4.1290—4.1296, as required by 30 CFR 840.15.

(4) The regulations do not contain rules of practice necessary to allow the public to exercise meaningfully the various procedural rights provided in the program. Louisiana should enact rules, comparable to 43 CFR Part 4, that inform the public how to initiate or intervene in administrative proceedings, how discovery and hearings will take place, and what posthearing and appeals procedures Louisiana will follow.

(5) The Secretary is unable to determine whether the public had a meaningful opportunity to participate in the development of the program submitted to OSM based on the information in the administrative record, including the narrative to the program submitted in response to 30 CFR 731.14(g)(14).

(l) In accordance with 30 CFR 732.15(b)(11), the Secretary finds that the Louisiana Office of Conservation has the authority under Louisiana laws and the Louisiana program includes provisions to monitor, review, and enforce the prohibition against indirect or direct financial interests in coal mining operations by employees of the Louisiana Office of Conservation consistent with 30 CFR Part 705 except as follows:

(1) The regulations as enacted by the 104th day after program submittal do not include a definition of "direct financial interest", consistent with the definition in 30 CFR 705.5, for use in Part 105 of the Louisiana regulations.

(2) Section 105.4(a)(2) omitted consideration of employees' interests in underground coal mines as required by 30 CFR 705.4(a)(2).

(3) Section 105.17(a)(2) does not require employees to report financial interests in underground coal mining activities as required by 30 CFR 705.17(a)(2).

In the May 20, 1980, amendments to the Louisiana regulations, Louisiana added a new Section 100.5(129) defined "direct financial interest" and revised Section 105.4(a)(2). The secretary has preliminarily determined that these amendments resolve exceptions 1–3 above, but he cannot officially consider the amendments until they are considered as part of Louisiana's resubmission under 30 CFR 732.13(f).

(m) In accordance with 30 CFR 732.15(b)(12), the Secretary finds that the Louisiana Office of Conservation has the authority under Section 915B(15)(d) of the LSMRA to require the training, examination and certification of persons engaged in or responsible for blasting and the use of explosives in accordance with Section 719 of SMCRA. Louisiana has no regulations on the training, examination and certification of persons engaged in blasting because 30 CFR 732.15(b)(12) does not require a state to implement regulations governing such training, examination and certification until six months after federal regulations for these provisions have been promulgated. These federal regulations have not been promulgated at this time.

(n) In accordance with 30 CFR 732.15(b)(13), the Secretary finds that the Louisiana Office of Conservation has the authority under Section 907C of the LSMRA to provide for a small operator assistance program (SOAP) but the Louisiana program, as of the 104th day, had no regulations consistent with 30 CFR Part 795 to provide for small operator assistance. Louisiana must correct this deficiency to comply with Section 507(b)(11) of SMCRA. The May 20, 1980, amendments to the Louisiana regulations include a new Part 195 on small operator assistance that preliminarily appears consistent with 30 CFR 795, but the Secretary cannot consider the new regulations in this decision.

(o) In accordance with 30 CFR 732.15(b)(14), the Secretary finds that the Louisiana Office of Conservation has the authority under Louisiana laws and the Louisiana program contains provisions to provide for protection of employees of the Louisiana Office of Conservation in accordance with the protection afforded federal employees under Section 704 of SMCRA. Section 921 of the LSMRA contains the provisions for protection of employees of the Louisiana Office of Conservation.

(p) In accordance with 30 CFR 732.15(b)(15), the Secretary finds that the Louisiana Office of Conservation has the authority under Sections 925 and 926 of the LSMRA and Parts 240–245 of the Louisiana regulations to provide for administrative and judicial review of state program actions in accordance with Sections 525 and 526 of SMCRA and 30 CFR Chapter VII, Subchapter L.

(q) In accordance with 30 CFR 732.15(b)(16), the Secretary finds that the Louisiana Office of Conservation has authority under Louisiana laws and the Louisiana program contains provisions to cooperate and coordinate with and provide documents and other information to the Office of Surface Mining under the provisions of 30 CFR Chapter VII.

(r) In accordance with 30 CFR 732.15(c), the Secretary finds that the LSMRA and regulations adopted thereunder and the other laws and regulations of Louisiana do not contain provisions which would interfere with or preclude implementation of the provisions of SMCRA and 30 CFR Chapter VII, except that the Louisiana Administrative Procedures Act (APA) contains several provisions inconsistent with certain procedural provisions of the LSMRA enacted to be consistent with SMCRA. The provisions of the APA that interfere with the procedures required by SMCRA are described in finding 1(a)(2) above, and are disapproved.

(s) In accordance with 30 CFR 732.15(d), the Secretary finds that the Louisiana Office of Conservation and other agencies having a role in the program have sufficient legal, technical and administrative personnel and sufficient funding to implement, administer and enforce the provisions of the program, the requirements of 30 CFR 732.15(b), and other applicable state and federal laws.

Disposition of Comments

A discussion follows of all significant issues raised in comments which OSM and the Secretary received concerning the Louisiana program submission.

1. The Mine Safety and Health Administration (MSHA) and the Environmental Protection Agency (EPA) commented on the narrative for 30 CFR 731.14(g)(13), pertaining to the content of the proposed training criteria for use in training, examining, and certifying blasters. These comments pertain to a part of the Louisiana program that is not required until the Secretary promulgates the federal regulations on training, examining and certifying blasters, which has not yet happened (*See* 30 CFR 732.15(b)(12)). The narrative provided by the Office of Conservation is used only as a guideline for inspectors, and does not impose training or safety requirements on operators. Upon adoption of the federal regulations, the Secretary will require Louisiana to adopt consistent regulations.

2. MSHA suggested changes in the outline of the proposed training criteria, but did not find any conflicting requirements in the proposed Louisiana state program that might present hazards to miners (*See* document LA–45). The Secretary may not review at this time the training outline, except to the extent it conflicts with SMCRA, which it does not, because no regulations on this subject have been published to date. Training criteria will need developing after the Secretary promulgates regulations on blaster training and certification.

3. The Bureau of Mines (BOM) questioned the Louisiana requirement that prospective underground mine operations give 36 months advance notice to the Office of Conservation prior to beginning an underground mining operation. Section 906E of the LSMRA prohibts underground coal mining operations. Louisiana requires 36-month notice to give time to promulgate and secure Secretarial approval of a program to regulate underground mining. The Secretary finds that the state has the authority to prohibit underground mining and to require advance notice of possible underground operations. No changes are required as a result of this comment.

4. The BOM also commented that on numerous occasions the scope and objective sections of federal regulations were deleted from the proposed Louisiana program. The scope section provides a brief summary of each part of the federal regulations. The objective section sets forth a simple statement of the objectives of the regulations of each part. SMCRA does not require and the Secretary finds that state regulations need not include scope and objective sections.

5. The BOM, the Bureau of Land Management (BLM), and the EPA commented that the "development operation" classification for mining operations that remove more than 250 but less than 25,000 tons of coal (Section 176.12) has no parallel provision in the Federal regulations, and that 25,000 tons appears high for a development operation. BLM stated that Louisiana's coal development operations classification is complex and belongs under the permitting regulations. The Secretary finds that Louisiana's concept of "development operations" falls within the concept of "exploration operations" in Section 512 of SMCRA, which envisions "excavations, roads, drill holes, and * * * facilities and

equipment." As to the 25,000 ton ceiling, the Secretary finds that this is consistent with Section 512 of the Act which places performance standards only on explorations "which substantially disturb the natural land surface" but which has no tonnage limit. The Secretary's regulations do not place a tonnage ceiling on the size of a bona fide exploration operation. Louisiana Section 215.17 provides that if coal is sold for purposes other than testing, the operation becomes subject to the permit requirements of Subchapter G and, thereby, to the full performance standards of Subchapter K. Under Section 176.15(a), all coal development operations must comply with Section 912 of LSMRA and the Louisiana regulations, including Section 215.15, the performance standards the Secretary has found consistent with 30 CFR 815.15. Therefore, the Louisiana program has provisions as stringent as the federal counterpart.

6. The Heritage Conservation and Recreation Service (HCRS) suggested that Section 164.23 of the Louisiana rules be revised to include a provision for withholding from the public disclosure locations of known archaeological sites and that the State Historic Preservation Officer be consulted on the advisability of public disclosure on a case-by-case basis. The Secretary will not require the states to do this because Section 164.23 and Section 176.16, to which it refers, are consistent with 30 CFR 764.23 and 776.17, respectively. The criteria against which state programs are being evaluated are SMCRA and 30 CFR Chapter VII, and states are not ordinarily being required to meet other standards as a condition of program approval.

7. HCRS recommended that the state regulations contain a provision that the Commission, Office of Conservation, consult with recretion planners in the Louisiana Office of Forestry and the Department of Culture, Recreation and Tourism (expecially the Office of Program Development and Division of Outdoor Recreation) before considering a surface coal mining permit on state forest lands. The parts of the program submission that are intended to satisfy the provisions of Section 731.14(f) include supporting agreements between the Commission and the agencies mentioned above. Accordingly, it is not necessary for the Louisiana regulations to make special reference to these agencies.

8. A commenter asked what revegetation requirements are applicable in the Louisiana program when less than 250 tons of coal are to be removed during exploration. The Louisiana regulations, Section 176.2 and 176.11, require that any substantial disturbances to the surface of the land during exploration operations or development operations that will remove 250 tons or less must be reclaimed in accordance with the standards of Section 915 of the LSMRA and the state regulatory program. Section 915 of LSMRA requires revegetation consistent with Section 515 of SMCRA. Section 215.15(f) of the Louisiana regulations requires revegetation consistent with 30 CFR 815.15(f). The Secretary has asked Louisiana to amend Section 176.11(b) to make clear that all the performance standards of Part 815 must be complied with by persons conducting development operations when the natural land surface will be substantially disturbed.

9. One commenter questioned the requirement of seeding or planting to the same seasonal variety previously existing and suggested allowing seeding of improved varieties upon mutual agreement with landowners. The Louisiana program, under Section 915 of the LSMRA, allows for the use of introduced species under certain conditions, except that use of any vine of the Kudzu family is prohibited. This accommodates the commenter's concern.

10. A comment on Section 215.15(f) of the Louisiana regulations concerned how soon after exploration and development operations restoration is to take place and for how long the mining company is responsible for satisfactory restoration. This section requires prompt reclamation and revegetation of the disturbed areas, as does the corresponding federal regulation, 30 CFR 815.15. Section 176.2(c) states specific requirements that must be met before the Commission will release an exploration or operation bond. The mining company is held responsible for satisfactory restoration until the Commission determines that those specific requirements have been met.

11. A commenter suggested there should be an on-site overseer to assure compliance with the many detailed requirements of the program. The Louisiana program includes the minimum federal requirements of this function in its program through the inspection and enforcement requirements of LSMRA and the Louisiana regulations. Therefore, the Secretary requires no change in the Louisiana program.

12. One commenter suggested deletion of "historically used as cropland" from Louisiana Section 179.27. The commenter thought that identification of prime farmland should be based on an evaluation by the Soil and Conservation Service (SCS), U.S. Department of Agriculture (USDA), not on historical use. Section 701.209 of SMCRA requires the Secretary to consider historic use in determining whether land is prime farmland. This reflected in CFR 779.21(b). The Louisiana regulation is consistent with the Secretary's regulation and he will nor require the suggested deletion.

13. A commenter wanted to know the authority of the USDA over prime farmland. The role of the Secretary of the USDA is of consultation and review of mining and reclamation plans through the State Conservationist located in located in each state. *See* 30 CFR 785.17(c) and Section 185.17(b) and (c) of the Louisiana regulations. No change in the Louisiana program is required.

14. The U.S. Forest Service (USFS) asked that it be involved throughout any surface mining activity on National Forest land, including determination of lands unsuitable for surface coal mining, permit applications, exploration and development activities, review and approval of operations plans, release of performance bonds and protection of research projects. The State hasd the authority to enter into a cooperative agreement with the Secretary of the Interior to regulate surface coal mining and reclamation activities on federal lands within the State under Section 923 of the LSMRA. Until a cooperative agreement is established, all applications for a permit to surface mine coal on U.S. Forest Service land within the State would be administered by the OSM under Section 523 of SMCRA and 30 CFR Chapter VII, Subchapter D. Upon receipt of an application for operations on National Forest System lands, the Regional Director of OSM will follow the procedure established in 30 CFR 741.20 and transmit a copy of the complete application to the Chief, U.S. Forest Service, for review, consent, and approval by the Secretary of Agriculture. This procedure ensures the involvement the U.S. Forest Service has requested.

15. The USFS commented that survival rates alone are not a true measure of whether reforested land is as productive following reclamation as it was before mining activities began. It suggested that quality control measures be used, but did not specify what measures would accomplish this job. 30 CFR 816.117(b) uses stocking, in terms of number of trees per acre, as the performance standard for determining reforestation success. Louisiana

regulation 216.117(b) uses the same standard for determining success of reforestation on forest land. The Secretary finds no changes are needed for this Section.

16. The USFS suggested that the Office of State Clearinghouse be added to the list of agencies for coordination and consultation. The Forest Service is presently receiving information from the Clearinghouse concerning planned activities that could have a significant effect on National Forest System lands, Forest Service research, and cooperative Forest Service programs. The Office of State Clearinghouse is an established office presently being used in Louisiana. The Secretary has suggested informally that Louisiana add this Office to the list of agencies for coordination and consultation. The Secretary will not require that this be done for Louisiana to have an approvable program. Under the federal rules, Louisiana only must contact and consult appropriate agencies when required under the Federal rules to do so, and the Louisiana program has provisions to do so.

17. The U.S. Soil Conservation Service (SCS) suggested that the assignment, in Louisiana Section 216.133(c)(5), of professional engineers to prepare plans and ensure conformance to accepted standards for vegetative cover and aesthetic design should instead be placed with registered agronomists and landscape architects. While the Secretary finds that both Section 515(c) of the Act and 30 CFR 816.133(b)(5) would allow other appropriate professionals to prepare plans and ensure conformance to acceptable standards, the Louisiana rule is consistent with the Secretary's and, therefore, no change is necessary. The Secretary will informally recommend that Louisiana consider the suggested change.

18. The BLM suggested in a comment on Louisiana Section 176.2(a) (2) and (3) that coal exploration plans be restricted to a logical or reasonable size based on potential coal development of the area. Section 512 of SMCRA and the federal regulations do not require a limit on the size of exploration areas. Louisiana regulation 176.2 places a maximum geographic limit (a township) on each exploration operation, and thus establishes a more stringent provision than the federal counterpart. Likewise, Section 176.12 concerning coal development operations, places an upper limit of "ten surface acres of overburden" on those operations. The Secretary concludes that these provisions restrict exploration to logical units consistent with the federal requirements and with the potential large scale lignite development projected for Louisiana. No changes are necessary.

19. The BLM commented that Louisiana Section 178 requires an excessive amount of financial and corporate compliance information for activities nationwide, much of which may not have direct bearing on environmental concerns for coal exploration or mining in Louisiana. However, the Secretary notes that Louisiana's law and regulations are consistent with SMCRA and 30 CFR Part 778 on these matters. The information required by Part 778 will aid the Louisiana Office of Conservation in determining the past compliance history of the person actually doing the work. When the actual operator is a different person from the applicant, the information in Section 178.13 and 178.14 of the Louisiana regulations will be necessary. Section 510(c) of SMCRA requires this determination.

20. The BLM recommended that Louisiana implement the procedures for designating lands unsuitable for surface coal mining (Subchapter F of the Louisiana regulations) before leasing is allowed. The comment did not specify whether state and private lands or only federal lands were being considered. As to federal lands, the Secretary, through BLM, is conducting a review under Section 522(b) of SMCRA to determine what lands should be declared unsuitable. As to state and private lands, the Secretary has no authority to require that tracts be considered for designation before leasing is allowed unless a petition is filed by a citizen or the Louisiana Office of Conservation for designation before leasing.

21. The U.S. Army Corps of Engineers (COE) requested that Louisiana Section 180.25(a)(1)(i) be revised to be similar to paragraph (a)(2)(i), and that paragraph (a)(3)(i) be revised to state that each detailed design plan should be reviewed and certified only by a qualified professional engineer, rather than having an option for review by a land surveyor. The wording in the Louisiana sections is identical to the comparable federal regulations; therefore, no changes are necessary.

22. The U.S. National Park Service (NPS) commented that it should be added to the list of coordinating agencies for coal development near an NPS jurisdictional unit. The EPA also commended that it be added to the list of coordinating agencies. In addition, the EPA suggested that information about hydrological impacts of proposed mining activities, including surface mining permit applications, be sent to the following groups to avoid conflicts on nonpoint source pollution control efforts under Section 208 of The Clean Water Act (33 U.S.C. 1251) and to assure coordination with the Louisiana 208 Water Quality Management Plan:

(1) The 208 coordinator for the appropriate Regional Planning Commission;

(2) The Technical Advisory Committee for Regional 208 Committee; and

(3) The appropriate Soil and Water Conservation District.

The Secretary, however, is satisfied that under Sections 171.23, 186.11 (b) and (c) of the State regulations, Louisiana will coordinate and consult with the NPS, EPA and other agencies as explained in the Louisiana program narrative (as amended April 16, 1980) submitted to comply with 30 CFR 731.14(g)(9)(10). No greater specificity for coordination can be required for the Louisiana program. Although such coordination and consultation is critical to the success of the state program, neither SMCRA nor the federal regulations require the states to specify this in their program proposals.

23. The NPS asked whether public agencies are to be notified for coal exploration and development permits as well as operating permits. The commenter has interpreted Section 186.11 as a requirement for the coal exploration program requirements. Sections 176.2–176.16 govern coal exploration and development. Public notice is not required for coal exploration operations (176.2) but is required for development operations that will cause removal of 250 tons of coal or more (176.12(b)). Information submitted to the State under Part 176, with certain exceptions authorized by SMCRA, is available for public review under Sections 176.11(c) and 176.16. These provisions are consistent with 30 CFR Part 776 and Section 512 of SMCRA. Although the Secretary has suggested to the State that it solicit broader agency comment on proposed exploration and development operations, the Secretary's rules do not require it. Therefore, no changes are needed.

24. The NPS sought clarification of the statement "interest in the area" in Section 186.11(c) as it relates to coal exploration permits. Public agencies "having an interest" are to be notified of pending permit applications in accordance with Section 186.11(c). "Having an interest" refers to situations where state and federal agencies which are responsible for the protection of environmental resources in the vicinity of the proposed operation (e.g.,

endangered species, wetlands, wilderness preservation) but do not have legal jurisdiction over the mine permitting process, have reason to believe that the proposed surface coal mining operation may affect the resources they are required to protect. That phrase is not repeated in 30 CFR Part 776 concerning coal exploration. 30 CFR 776.12(b)(1) requires public notice of all proposed coal exploration involving removal of more than 250 tons and 30 CFR 776.12(b)(3) allows "any person with an interest which is or may be affected" to file written comments. The Louisiana notice requirements in Section 176.12(b) are consistent with the Secretary's regulations. The NPS and other government agencies fall under the concept of a "person with an interest which is or may be affected" and therefore may comment on proposed exploration or development operations that might remove more than 250 tons of coal.

25. The NPS commented that a statewide inventory for lands unsuitable for coal mining would be more effective instead of relying on interested persons to petition for unsuitability designations. NPS suggests that the petition process is not sufficient. Part 164 of the Louisiana regulations tracks 30 CFR Part 764, establishing a process for such designations in accordance with Section 522 of SMCRA (30 U.S.C. 1272). Section 522(a)(4)(B) of SMCRA only requires a data base and inventory system to permit proper evaluation of lands proposed as unsuitable for mining, but does not require that all lands in the state be evaluated before there can be any mining. Rather, Section 522(c) establishes a petition process to determine whether particular state lands may be unsuitable for mining. The Secretary will not require the states to go beyond the requirements of Section 522 of SCMRA.

26. The NPS suggested that air quality standards for air pollutants, in addition to fugitive dust, be included in the state rules. NPS contended that coal processing plants support facilities will have other pollutant emissions in addition to fugitive dust. The commenter suggested that language be inserted in Sections 185.21 and 227.12 to require compliance with National Prevention of Significant Deterioration of Air Quality standards and other applicable controls for regulated air pollutants. The Secretary has no performance standards controlling pollutant emissions other than fugitive dust and will not require states to have any such regulations in their programs under SMCRA. Furthermore, the U.S. District Court for the District of Columbia has held that the Secretary's authority regarding air pollution regulation extends only to air pollution attendant to erosion. *In Re: Permanent Surface Mining Regulation Litigation* —— F.Supp.—— (D.D.C.) Mem. Opinion, May 16, 1980, P. 27–29. The court remanded 30 CFR 816.95 to the Secretary and ordered him to disapprove any state regulation bases on a remanded regulation. Accordingly, Section 216.95 of the Louisiana regulation must be disapproved to the extent it extends to air pollution not caused by erosion and Louisiana does not request retention of this regulation in its program.

27. The NPS stated that it should be consulted regarding the adequacy of the bond amount when issuance of a permit may affect any NPS jurisdicational unit. Louisiana regulations 180.18(b)(2), 200.13 and 205.11 are consistent with 30 CFR 780.18(b)(2), 800.13 and 805.11 concerning the determination of the performance bond amount. The Secretary believes that the information required of the applicant for a permit under the Louisiana regulations and the procedures in Part 186 for public review and comment on permit applications are adequate to afford federal agencies an opportunity to comment on the proposed bond amount prior to the issuance of a permit.

28. The U.S. Fish and Wildlife Service (FWS) suggested that the Louisiana Office of Conservation change in language of Section 731.14(g)(10) to add certain federal agencies to the list of agencies being consulted regarding proposed fish and wildlife protection plans. This is unnecessary since Louisiana Section 186.17(a)(2) specifies that the Louisiana Office of Conservation shall determine the adequacy of proposed plans after consulting with the appropriate state and federal fish and wildlife agencies. This would include the FWS. This comment may no longer be relevant, however, as a result of the district court's February 26, 1980, decision. In that opinion at p. 38–39, the district court ruled that the Secretary has no authority under SMCRA to compel the states to require operators to have a fish and wildlife protection plan and remanded 30 CFR 779.20 and 780.16 Furthermore unless Louisiana requests otherwise, under the court's May 16, 1980, decision, Sections 179.20 and 180.16 of the Louisiana regulations must be disapproved.

29. The FWS suggested that Louisiana change the title of Section 731.14(f) from "Supporting Agreements Between State Agencies" to "Supporting Agreements Between State and Federal Agencies." 30 CFR 731.14(f) only concerns agreements between agencies that will have duties in the state program. Therefore, no change is required.

30. The FWS commented that the form entitled "Application to Engage in Exploration Operations" does not contain adequate space for the applicant to provide information needed to comply with the requirements of Sections 776.13(b)(2) and 815.15(a), (b). The Secretary is not basing his decision to approve or disapprove a state program on forms submitted with program materials. Any problems with forms will be discussed with the state as part of the Secretary's monitoring function during the permanent program. As to this comment, the Secretary assumes that if more space is needed, addendum sheets would be appropriate and acceptable.

31. The FWS suggested that an environmental coordinator be added to the staff of the Louisiana Office of Conservation. The discussion of consultation and coordination among agencies is adequately addressed in the narrative parts of the Louisiana program submitted to comply with 30 CFR 731.14(g)(9) and (10). Additionally, the narrative for Section 731.14(i) of the Louisiana submission shows that an adequate staff is proposed to administer the program in Louisiana, including environmental protection coordination. Accordingly, no change will be required in response to this comment.

32. The FWS requested to be the list of professional and technical resources available to assist the Louisiana Office Conservation. The Louisiana Office of Conservation has chosen to enter into a supporting agreement with the State Department of Wildlife and Fisheries for assistance in fish and wildlife matters. However, the concern of the U.S. Fish and Wildlife Service is addressed in the narrative for 30 CFR 731.14(k) in the Louisiana program, which states that other agencies not included in the list could be called upon to provide assistance if needed. The Secretary assumes that this includes the FWS.

33. The FWS commented on the Louisiana program provisions relating to the application for coal development operations permits. The FWS desires Louisiana to specify that, in those cases where minimum data requirements are required or suggested, and sampling and monitoring procedures have not been specified, Louisiana will continue to work closely with OSM and other appropriate federal and state agencies to develop and disseminate technical information. Although such cooperation is desirable and the Secretary

encourages it, neither SMCRA nor the Secretary's regulations require the states to specify this in their program proposals.

34. The FWS noted that Louisiana provided an explanation as to why analogues to the federal rules for underground mining performance standards (30 CFR Part 817) were not provided in the Louisiana regulations. The FWS suggested that the explanation in the section-by-section analysis (p. C–563) be included in other parts of the analysis where analogues to other federal rules for underground mining were omitted. The Secretary notes that underground mining is prohibited by Section 906E of the LSMRA and believes that this provision has been adequately addressed in the section-by-section analysis. No change is necessary for program approval.

35. The FWS requested that OSM notify states, including Louisiana, of the Memorandum of Understanding between OSM and FWS, particularly that part which prohibits the delegation to any state authority responsibility for compliance with the consultation requirements contained in the Endangered Species Act and amendments thereto. The Secretary agrees and OSM has provided a copy of the MOU to Louisiana.

36. The FWS asserts that the regulations contained in Part 162 of the Louisiana rules—Criteria for Designating Areas as Unsuitable for Surface Coal Mining Operations—are incomplete because two sections have been reserved. The scope provision (30 CFR 762.1) is a feature of federal rulemaking, but is not required in the State's regulations. The definitions of 30 CFR 762.5 have been included with other definitions in Section 100.5 of the Louisiana regulations. Therefore, Part 162 is consistent with 30 CFR Part 762. FWS also stated that it recognizes a need to work with Louisiana in developing fish and wildlife related criteria for designating lands unsuitable for mining. The FWS contends that the specifics of such criteria and any exceptions that might apply do not appear in Part 162. Although this is correct, Part 162 of the Louisiana regulations is identical to 30 CFR Part 762 (with the two exceptions noted above) and therefore consistent with the Secretary's requirements. Accordingly, no changes are necessary.

37. The Advisory Council on Historic Preservation (ACHP) suggested additional language for Louisiana to include in its program to comply with the intent of Section 106 of the National Historic Preservation Act (NHPA). The proposed language would (1) provide for a system for consulting with state and federal agencies having responsibility for the protection of management of historic, cultural and archaeological resources; (2) provide for coordination of review of permits with the applicable requirements of NHPA; and (3) provide procedures and criteria for identifying and protecting properties under the provisions of NHPA. The Louisiana regulations provide for coordination and consultation with the State Historic Preservation Office in Sections 161.11(c), 162.11(b)(2), 164.15(b)(1), 164.17(b)(1)(i), and 164.19(a)(2). These provisions appear to the Secretary to assure consideration is given to historic resources to the full extent required under SMCRA. Therefore, no change is required.

38. The ACHP sought additional information to determine the extent that the proposed regulatory program is in compliance with Section 106 of the NHPA. The information requested concerns the requirement of NHPA for written comments from the State Historic Preservation Office (SHPO) and an independent determination by OSM's regional director as to the likelihood that the state program will adversely affect properties included, or eligible for inclusion, in the National Register of Historic Places. The Louisiana regulations provide for the coordination and consultation with the SHPO in Sections 161.11(c), 162.11(b)(1), and 164(b)(1)(i). Even if the State of Louisiana includes language in its regulations suggested by the commenter, the coordination process would only be presented in more detail. The Secretary's regulations require no more and the Louisiana program meets the federal requirements. Accordingly, no change is necessary.

39. The EPA recommends that the Louisiana program include a requirement that all legal notices be accompanied by a press release so that the mass media will inform the public. EPA reported that its experience has shown this to be more effective than newspaper legal notices. SMCRA, however, does not require states to use press releases in addition to the specified legal notices. Therefore, no change is being required in response to the comment.

40. The EPA commented that Section 243.13(d) of Louisiana's regulations provides that "a public hearing may be provided" whereas 30 CFR 843.13(d) provides that a hearing "shall" be provided. The Secretary agreed and requested that the Louisiana regulations be changed from "may" to "shall" to protect the operator's right to a hearing. (*See* Administrative Record No. LA–62.) Louisiana amended its rules to make this change. *See* 6 *Louisiana Register* 296, June 20, 1980. However, the change cannot be approved at this time because it was not enacted on or before the 104th day after the program was submitted.

41. The EPA commented that in developing criteria for designating lands unsuitable for surface mining, consideration be given to the President's Executive Order (EO) 11900 (Wetland Protection) and 11988 (Flood Plain Management). Louisiana Section 162.11(b)(2), analogous to 30 CFR 762.11(b)(2), states that, upon petition, an area may be designated as unsuitable for certain types of surface coal mining operations if the operation will adversely affect fragile lands or result in significant damage to important natural systems. The Secretary does not have authority to obligate the State to comply with EO 11900 and 11988, but encourages Louisiana and other states to consider applying the criteria of those orders when reviewing operations that may affect wetlands or floodplains.

42. The EPA pointed out that by deleting the last sentence of 30 CFR 845.19 from Section 245.19(a) of the Louisiana rules, violators would be allowed to contest the fact of the violation a second time in formal review of the penalty. EPA suggested that this second review on the violation may delay individual enforcement actions and cause a need for greater commitment of state resources. The Secretary agrees, and has determined that the Louisiana procedure is inconsistent with 30 CFR 845.19(a) in that Louisiana does not expressly preclude further administrative review once the fact of a violation has been decided in a formal administrative proceeding. *See* Finding 4(h) above. Louisiana amended its regulations to be consistent with 30 CFR 845.19(a) on August 20, 1980. *See* 6 L.R. —— August 20, 1980.

43. The EPA commented that omission of the phrase "any applicable program" from Louisiana regulations Sections 243.11(a)(1) and 243.13(a)(3), otherwise consistent with 30 CFR 843.11(a)(1) and 843.13(a)(3), meant that violations of a NPDES permit condition would not be a basis for issuance of a cessation order or suspension or revocation of permits. EPA has misinterpreted the meaning of 30 CFR 843.11(a)(1) and 843.13(a)(3). Neither section authorizes OSM to take an enforcement action on the basis of a violation of a NPDES permit condition. The phrase "any applicable program" is not meant to give OSM or the states authority to take enforcement actions

under other environmental protection laws. Nonetheless, OSM may enforce NPDES permit conditions to the extent that they are the same as performance standards in 30 CFR, Chapter VII or in the state regulations. EPA will remain responsible for enforcement of NPDES permits unless that responsibility is delegated to the state. The Secretary notes that EPA and OSM are nearing completion of a Memorandum of Understanding (MOU) which, when finalized, would shift certain NPDES inspection and enforcement responsibilities under NPDES to OSM. However, no change in the Louisiana program is required.

44. The EPA commented that the standard for state court review of Office of Conservation actions, under 30 L.S. 926A(4), is more relaxed than the standard by which U.S. district courts review actions of the Secretary. EPA suggested that the power of state courts to overturn an agency action found to be "unreasonable" will more often frustrate agency decisions than would the "arbitrary and capricious" standard applied to the Secretary's decisions by Section 526(a)(1) of SMCRA and that, therefore, the Louisiana standard should be changed. Section 526(e) of SMCRA requires that state agency actions pursuant to approved state programs "be subject to judicial review by a court of competent jurisdiction in accordance with state law" as long as that review does not interfere with citizen suit provisions under Section 520 of SMCRA. The Louisiana program satisfies this requirement. In addition, the EPA has provided no case law or reasoning to support an assertion that the "unreasonable" standard, as interpreted by the Louisiana courts, is substantively different from the "arbitrary and capricious" standard of Section 526(a)(1) or the "substantial evidence" standard of Section 526(b) of SMCRA. Accordingly, the Secretary is unable to find that the Louisiana test would result in judgments allowing less stringent environmental protection requirements than would SMCRA's test. Therefore, no change is required.

45. The Department of Energy (DOE) asked that 30 CFR Part 824 be included in the Louisiana program to assure protection of the environment from mining in areas of "hilly terrain." 30 CFR Part 824 allows an exemption from the requirement to return land to its approximate original contour. By deleting Part 824, the Louisiana program is more stringent than it would be with Part 824. Therefore, no change is required.

46. The DOE suggested that Louisiana add a rule consistent with 30 CFR 816.116(b)(1)(i) because the State receives more than 26 inches average annual precipitation. The Secretary concurs with this comment. Louisiana has promulgated an analogue to the federal regulation as Section 216.116(b)(1), which became effective on May 20, 1980 (6 L.R. 188). However, because this rule was not enacted on or before the 104th day after program submission, it must be disapproved pending resubmission under 30 CFR 732.13(f).

47. The DOE pointed out the inconsistency that page (c)–320 of the Louisiana program submission states that an analogue to Section 785.13 of 30 CFR (Experimental practices mining) has been deleted, but the section is included as part of the submission on page (a)–144. The commenter requested that this section be included in the submission. The inconsistency has been explained as an error in typing on page (c)–320 of the Louisiana program submission. No change in required.

48. The DOE requested that 30 CFR Part 828, concerning in situ processing, be included in the Louisiana program, because its exclusion could limit the development of lignite coal reserves. OSM concurs with the comment. Louisiana promulgated a comparable provision, Part 228, on May 20, 1980, (6 L.R. 188) which appears to be consistent with the requirements of 30 CFR Part 828. However, because this new rule was not enacted on or before the 104th day after program submission, it must be disapproved pending resubmission under 30 CFR 732.13(f).

49. The DOE commented that the narrative submitted under 30 CFR 731.14(g)(11), concerning designations of lands as unsuitable for mining, needed more detail. The Secretary considers that the program narrative is sufficient to comply with 30 CFR 731.14(g)(11). Therefore, no change is necessary for approval of this part of the program.

50. The DOE suggested that Louisiana be required to include in its regulations provisions comparable to 30 CFR 700.12, petitions to initiate rulemaking. The Secretary concurs. The regulation provides a procedure for initiating rulemaking with enhances the right of the public and the industry to participate in the future development of the Louisiana program. Section 953C of the Louisiana Administrative Procedure Act (49 L.S. 953C) requires such a regulation. Louisiana has added a new Section 100.12, which appears to be consistent with 30 CFR 700.12 and 49 L.S. 953C. It was promulgated May 20, 1980, (6 L.R. 179). However, because this new rule was not enacted on or before the 104th day after program submission, it must be disapproved pending resubmission under 30 CFR 732.13(f).

51. The DOE suggested requiring the Louisiana program to have a rule comparable to 30 CFR 770.12 listing other state and federal laws with which an operator might seek to comply during the process of obtaining a surface coal mining permit. The program narrative for 30 CFR 731.14(g)(9) and (10) and 731.14(f) indicates that the program will include coordination with all other state or federal laws and permit requirements, which will result in the same coordination as would a regulation. Furthermore, a regulation comparable to 30 CFR 770.12 is not required for program approval. Therefore, no change is required.

52. The DOE requested that an analogue to 30 CFR 771.21(a), concerning permit filing deadlines, be included in the Louisiana regulations for the initial implementation of the permanent regulatory program. Such a rule is unnecessary because there are no existing surface mines in Louisiana and the Secretary interprets 30 CFR 771.21(a) to apply only to continuing operations existing at the time of program approval. Louisiana Section 171.21 specifies that permits must be submitted at least 120 days before anticipated startup of operations. This requirement is in compliance with 30 CFR 771.21(b); therefore, no change is necessary.

53. The DOE suggested that the Louisiana program include a comparative assessment of Part 206 of the Louisiana regulations with 30 CFR Part 806 of the federal regulations to determine the differences between these sections and the adequacy of Louisiana's Part 206. Louisiana has made a comparative review. In Vol. II–C of its submission, Louisiana made a side-by-side comparison of federal regulations promulgated pursuant to SMCRA with Louisiana's regulations. On pp. (c)–392 through (c)–406, the side-by-side comparison is made for Parts 806 and 206, with differences both identified and explained by Louisiana. At the beginning of Vol. II are errata sheets, pp. 2 and 3 of which indicate corrections to Part 206. Also, with the amendments to the program submitted April 15 and 16, 1980, the State submitted proposed modification of Parts 206 and 207 with further narrative explanation and supporting case law. The amendments were promulgated May 20, 1980 (6 L.R. 185–187). The differences between Part 206 and 30 CFR 806 arise from the fact that Louisiana historically has a Napoleonic

"code law" tradition rather than a "common law" tradition like the other 49 states and that Louisiana has not adopted the Uniform Commercial Code. There now appears to be no substantive difference between Part 206, as amended, and 30 CFR Part 806. However, because the proposed amendments were received April 15 and 16 (the 104th day after initial program submission) Part 206 must be disapproved to the extent detailed in the findings pending resubmission of the program under 30 CFR 732.13(f).

54. The U.S. Geological Survey (USGS) recommended that Louisiana be made aware of existing coordination responsibilities among the BLM, USGS, and OSM for management of federal coal. The State has been provided a copy of the memorandum of agreement among those agencies.

55. The USGS recommended that Louisiana add a section to its submission on steps to be taken if any future exploration or development occurs on federal lands in the State. Section 923 of the Louisiana Act provides authority for the State to enter into a cooperative agreement with the Secretary for regulation of coal mining on federal lands. If such mining occurs, it will be regulated by OSM in cooperation with the federal land managing agency or by the State to the extent allowed under a cooperative agreement approved by the Secretary after review by other federal agencies. Accordingly, no change in the Louisiana Program will be required.

56. The FWS responded to OSM's request to review and comment on the Louisiana program submission by giving its Biological Opinion that Louisiana's program as proposed is not likely to jeopardize the continued existence of endangered or threatened species pursuant to Section 7 of the Endangered Species Act (ESA) (16 U.S.C. 1531–1543).

The FWS opinion was based on the Louisiana program requirements comparable to 30 CFR 780.16(a)(1) and (b)(1) requiring a fish and wildlife plan in permit applications; 30 CFR 786.17(a)(2) concerning review of those plans; and 30 CFR 786.19(o), which requires that, for permit approval, the regulatory authority find that the operation will not affect the existence of threatened or endangered species or their habitats. Subsequent to the FWS's Biological Opinion, the U.S. District Court for the District of Columbia remanded 30 CFR 779.20 and 780.16 *In Re: Permanent Surface Mining Regulation Litigation,* F. Supp (D.D.C.), Court Opinion, February 26, 1980, pp. 38–39. As a result of the court's Round II order Id, Mem. Op. May 16, 1980, the Secretary must affirmatively disapprove Louisiana Sections 179.20 and 180.16. These sections require each permit application to contain a study of fish and wildlife and to include a fish and wildlife reclamation plan (*See* 45 FR §45607, July 7, 1980). The Secretary has received a stay of that portion of the court's decision, pending appeal. Even though the Secretary cannot require Louisiana to have regulations that incorporate remanded regulations, Louisiana may retain them in its program.

However, the court did not remand 30 CFR 786.19(o) which is reflected in Louisiana regulation Section 186.19(n). This section requires a finding by the Louisiana Office of Conservation, prior to issuing a permit, that the proposed operation will not affect the continued existence of a threatened or endangered species or critical habitat. Thus, the Office of Conservation must determine whether endangered species or critical habitat would be affected by the proposed mine, but without the benefit of requiring the applicant to provide such information. The Secretary believes that the finding required by 30 CFR 786.19(o), as reflected in Section 186.19(n) of the Louisiana regulations, fulfills the Department of the Interior's responsibilities under the Endangered Species Act to ensure that approval of a state program is not likely to endanger the continued existence of threatened or endangered species or their critical habitats.

FWS also requested, in its biological opinion, that OSM provide it with the details of OSM's program for monitoring approved state programs for endangered species protection. OSM has not finalized internal procedures for its monitoring responsibilities and has no regulations on the subject. However, OSM is bound by a memorandum of understanding between OSM and FWS dated June 10, 1980, to be the lead agency for monitoring state programs for ESA compliance, and to consult with FWS concerning corrective action whenever it has reason to believe that a state is failing to adequately protect endangered species.

By memorandum of July 11, 1980, the FWS expressed its concern that the district court's order remanding 30 CFR 779.20 and 780.16 effectively precludes the Secretary from carrying out the most logical way to insure proper implementation and monitoring of fish and wildlife protection standards of SMCRA. The Secretary sympathizes with the FWS but must comply with the court's order pending outcome of the stay application or appeal.

Disposition of Comments On List of Regulations that Must be Disapproved

The following comments were received in response to the proposed list of Louisiana rules to be disapproved in accordance with the district court's order. This list was published July 7, 1980 (45 FR 45604).

1. The Louisiana Office of Conservation (LOC), the Central Louisiana Electric Company, Inc. (CLECO), and the Southwestern Electric Power Company (SWEPCO) commented that item 2 of the list of regulations should be changed from 100.5(6) to 100.5(60). The Secretary acknowledges this to be a typographical error, and an appropriate change will be made.

2. The LOC and CLECO/SWEPCO commented that Section 176.5(b)(3) should be added to the proposed list of Louisiana provisions incorporating suspended and remanded federal regulations for the same reason as item 25 was on the list. The Secretary agrees that Section 176.5(b)(3) should be added to the list.

3. The LOC and CLECO/SWEPCO commented that Section 176.5(B)(5) should be added to the proposed list of Louisiana provisions incorporating suspended and remanded federal regulations for the same reason as item 26 of the list. The Secretary agrees that Section 176.5(b)(5) should be added to the list.

4. The LOC and CLECO/SWEPCO commented that Section 100.5(146), the definition of "valid existing rights," should be deleted from the proposed list of Louisiana provisions incorporating suspended and remanded federal regulations because this definition is not applicable to the Louisiana program. The Secretary notes that valid existing rights may be applicable in Louisiana because the State requires permits for exploration and development operations which have occurred for several years. However, the definition of valid existing rights was not fully enacted on or before the 104th day after the program was submitted and thus cannot be considered part of the program submission at this time. For this reason, the Secretary finds that it should be removed from the list of rules that must be disapproved to comply with the district court's order.

5. The LOC and CLECO/SWEPCO commented that Section 207.11(e), concerning bond release conferences, should be deleted from the proposed list of Louisiana provisions incorporating suspended and remanded federal regulations because the Louisiana program has been amended to provide for citizens' access to the minesite.

Although this appears to be true, the amendment was enacted after the 104th day and therefore cannot be considered. The rule, as it existed before amendment, will remain on the list for the time being.

6. The LOC and CLECO/SWEPCO commented that Section 208.12[c], bond liability limit, should be deleted from the proposed list incorporating suspended and remanded federal regulations. OSM has asked Louisiana to revise Section 208.12(c) to comply with the court's suspension and Louisiana has deleted the suspended language. (See Administrative Record No. LA-147. However, the change cannot be approved at this time because it was not fully enacted on or before the 104th day after the program was submitted. The pre-amendment rule will remain on the list.

7. The LOC and CLECO/SWEPCO commented that Section 205.13(d) should be deleted from the proposed list incorporating suspended and remanded federal regulations. Although Louisiana has deleted Section 205.13(d) from its regulations, it was not deleted before the 104th day after the program was submitted to OSM. Therefore, the Secretary must disapprove this section in accordance with the court's decision and as it existed in the Louisiana program on the 104th day.

8. The LOC and CLECO/SWEPCO commented that Sections 161.11(c) and 161.12(f)(1) have been amended to delete the language regarding eligibility for listing on the National Register of Historic Places. Louisiana has deleted the phrase in Sections 161.11(c) and 161.12(f)(1) "or eligible for listing" but the change was not made on or before the 104th day after the program was submitted. Therefore, the Secretary must disapprove these sections to the extent specified in 45 FR 45608, July 7, 1980, and in accordance with the court's decision.

Approval in Part/Disapproval in Part

The Louisiana program is approved in part and disapproved in part. As indicated above, under the Secretary's Findings, certain parts of the program meet the criteria for state program approval in Section 503 of SMCRA and 30 CFR 732.15, and certain parts of the program do not meet the criteria. Partial approval means that Louisiana may revise and resubmit the disapproved portions of the program within 60 days of the effective date of this decision. However, Louisiana, by telegram of August 26, 1980, has requested the Secretary to consider immediately all program revisions made (and submitted to OSM) after the 104th day as constituting the official resubmission of the Louisiana program, effective upon the date of any disapproval by the Secretary. *See* administrative record document number LA-171. The Secretary grants Louisiana's request and, accordingly, considers the Louisiana program re-submitted. The resubmission will be reviewed and approved or disapproved under procedures in 30 CFR Part 732. The Secretary will afford the public 15 days to review the resubmission. A public hearing will be held on September 16, 1980. Public comment will close on September 17, 1980. The Secretary has 60 days from the date of this notice to approve, approve conditionally or disapprove the Louisiana resubmission. The State will not assume primary jurisdiction to implement and enforce the permanent program under SMCRA until the entire program is approved.

The following program parts are approved:

(a) The Louisiana Surface Mining and Reclamation Act (LSMRA), 30 L.S. 901–932, as amended by Act 553 of the 1979 Louisiana Legislature, with the exceptions that Section 922D(5) is disapproved as inconsistent with Section 522(e)(5) of SMCRA. *See* Finding 1(a)(1).

(b) The Louisiana regulations submitted January 3, 1980, except those sections disapproved under Findings 4(a)–(s), and those regulations disapproved in accordance with the district court's Order (*See* below under paragraph (f) list of elements of Louisiana program being disapproved).

(c) The Louisiana program provisions for administrative, legal and technical personnel and funding for the regulation of surface coal mining and reclamation operations and enforcement of the environmental standards.

(d) The program provisions to:

(1) Coordinate the review and issuance of permits for surface coal mining and reclamation operations with any other federal or state permit process applicable to the proposed operations.

(2) Require that persons extracting coal incidental to government-financed construction maintain information on site.

(3) Enter, inspect and monitor all coal exploration and surface coal mining and reclamation operations.

(4) Provide for civil and criminal sanctions for violations of state law, regulations and conditions of permits and exploration approvals including civil and criminal penalties, except for those parts covering protection of DPCE employees.

(5) Provide for protection of Office of Conservation employees in the course of their duties.

(6) Provide for administrative review of state program actions.

(7) Cooperate and coordinate with and provide documents and other information to the Office.

The following program parts are disapproved:

(a) Section 922D(5) of the LSMRA.

(b) Sections 956(8), 957, 959, 964B and 964C of the Louisiana Administrative Procedures Act (LAPA), [49 L.S. 951–968] are disapproved to the extent its provisions supersede provisions of LSMRA *See* finding (1)(a)(2).

(c) All the Louisiana rule amendments submitted as proposed rules on April 15, and 16 and May 3, 1980, and subsequently enacted May 20 or June 20, 1980.

(d) The proposed amendments to the LSMRA received by OSM April 15 and 16 and May 3, 1980, that were subsequently enacted June 27, 1980.

(e) The program provisions to:

(1) Implement, administer and enforce all applicable performance standards *See* finding 4(b).

(2) Implement, administer and enforce a permit system and prohibit surface coal mining and reclamation operations without a permit issued by the regulatory authority. *See* finding 4(c).

(3) Regulate coal exploration and prohibit coal exploration that does not comply with the performance standards required by SMCRA. *See* finding 4(d).

(4) Implement, administer and enforce a system of performance bonds and liability insurance, or other equivalent guarantees. *See* finding 4(g).

(5) Issue, modify, terminate and enforce notices of violations, cessation orders and show cause orders. *See* finding 4(i).

(6) Provide for administrative and judicial review of state regulatory actions in accordance with 30 CFR Subchapter L. *See* finding 4(h).

(7) Designate areas as unsuitable for surface coal mining. *See* finding 4(j).

(8) Provide for public participation in the development, revision and enforcement of state regulations and the state program. *See* finding 4(r).

(9) Monitor, review and enforce the prohibition against indirect or direct financial interests in coal mining operations by employees of the state regulatory authority. *See* finding 4(l).

(10) Provide for small operator assistance. *See* finding 4(n).

(11) Require the training, examination and certification of persons engaged in or responsible for blasting and the use of explosives. *See* finding 4(m).

(f) The following list of Louisiana rules submitted January 3, 1980, that incorporate the Secretary's rules suspended by OSM or remanded by the U.S. District Court for the District of Columbia:

1. Section 100.5(60), the definition of "mine plan area," and the use of the term in Parts 179 and 180 is disapproved to the extent of the court's order regarding requirements of information outside the permit area.

2. Sections 179.20 and 180.16 requiring a permit application to contain a study of fish and wildlife and to include a fish and wildlife reclamation plan are disapproved.

3. Section 179.21 is disapproved to the extent it requires a soil survey for lands other than those which a reconnaissance inspection suggests may be prime farmland.

4. Section 207.11(e) is disapproved to the extent it fails to provide for citizens' access to the minesite when the informal conference provisions are implemented during bond release.

5. Section 208.14(b) is disapproved to the extent it allows the regulatory authority to forfeit and keep the entire amount of a bond where the entire amount is not needed to complete the reclamation.

6. Section 216.115 is disapproved to the extent it requires an operator who proposes range or pasture as the post-mining land use to actually use the land for grazing for the last two years of bond liability.

7. Sections 223.11(c), 223.15(b), and 223.15(c) are disapproved to the extent they require an operator on prime farmland to actually return the land to crop production.

8. Section 216.116(b) is disapproved to the extent that it states that an operator's responsibility for successful revegetation is not commenced until the vegetation reaches 90 percent of the natural cover in the area.

9. Section 216.133(c) is disapproved to the extent it requires an operator to provide "letters of commitment" for proposed land use changes or for proposed cropland use.

10. Sections 185.17(a)(3) and 223.14(c), concerning excessive soil compaction, are disapproved, pending OSM's promulgation of a standard for soil compaction.

11. Sections 216.42(a)(1) and (a)(7) are disapproved to the extent they apply effluent standards to the reclamation phase of a surface coal mining operation.

12. Section 216.42(b), relating to effluent standard exemptions during major storm periods, is disapproved pending OSM's promulgation of new sediment removal regulations.

13. Section 216.46(b), concerning sediment storage volume in sediment ponds, is disapproved, pending OSM's promulgation of new requirements.

14. Section 216.46(c), concerning detention time for water in sediment ponds, is disapproved, pending OSM's promulgation of new requirements.

15. Section 216.46(d) is disapproved to the extent it requires dewatering devices to have a discharge rate to achieve and maintain the theoretical detention time for sediment ponds.

16. Section 216.46(h), concerning sediment removal from sediment ponds, is disapproved, pending OSM's repromulgation of rules.

17. Section 216.65(f), requiring special approval prior to blasting within 1,000 feet of certain buildings and 500 feet of other facilities and which restricts blasting at distances greater than 300 feet, is disapproved.

18. Section 216.83, concerning coal processing waste banks, is disapproved to the extent it precludes a possible exemption from the underdrain requirement where the operator can demonstrate that an alternative would ensure structural integrity of the waste bank and protection of water quality.

19. Section 216.95, concerning air resources protection, is disapproved to the extent it applies to aid pollution not caused by erosion.

20. Sections 216.150–176, concerning performance standards for three classes of roads, are disapproved pending OSM's promulgation of new regulations.

21. Section 101.5(93), the definition of "roads" that is used in Sections 216.150–176, is disapproved, pending OSM's promulgation of new regulations.

22. Section 185.17(a)(8) is disapproved to the extent that it requires prime farmland reclamation target yields to be based on estimated yields under a high level of management rather than a level of management equivalent to that used on prime farmlands in the surrounding area.

23. Section 101.11(c)(1) (i) and (ii) relating to exemptions for existing structures, are disapproved to the extent that the exemptions are not mandatory after the appropriate findings are made.

24. Sections 176.5(b)(3) and 176.11(a)(3) concerning the requirements for maps of the proposed exploration area, are disapproved.

25. Sections 176.5(b)(5) and 176.11(a)(5), concerning the requirement that operators explain their bases for entering the development area when the surface is owned by a person other than the operator, are disapproved.

26. Section 216.133(b)(1) is disapproved to the extent it does not allow restoration of lands to the conditions they were capable of supporting prior to any mining.

27. Sections 161.11(c) and 161.12(f)(1) are disapproved to the extent that they prohibit or restrict mining near places only eligible for listing on the National Register of Historic Places, and the phrase "or a statutory or regulatory responsibility for" in Section 161.12(f)(1) is disapproved. Further, both rules are disapproved to the extent that they apply to privately-owned places listed on the National Register of Historic Places in addition to publicly-owned places.

28. Section 206.12(e)(6)(iii) is disapproved to the extent it requires cessation of operations upon the insolvency of a surety.

29. Section 208.12(C) is disapproved to the extent that it limits bond liability to protection of the hydrologic balance.

30. Section 216.103(a)(1) is disapproved to the extent it does not provide operators the option of treating acid-forming and toxic-forming material in lieu of covering such materials.

31. Sections 245.13 and 245.14 are disapproved to the extent they impose a civil penalty point system.

32. Section 205.13(d) concerning exceptions to revegetation requirements, is disapproved to the extent that the exception the regulatory authority may grant might be from all of Part 216.

33. Section 100.11(b), concerning the two-acre exemption, is disapproved insofar as it applies to any operation by the person who affects or intends to affect more than two acres at physically unrelated sites within one year when the area affected at each site does not exceed two acres.

34. Section 100.5(85), the definition of "public road," is disapproved pending repromulgation of Federal rules.

Effect of this Action

Louisiana is not now eligible to assure primary jurisdiction to implement the permanent program. However, Louisiana has resubmitted its proposed program to correct those parts of the program being disapproved.

The Secretary is affording the public 15 days to review the resubmitted program. During this period the Secretary is soliciting comments from the public, the Administrator of the Environmental Protection Agency, the Secretary of Agriculture and the heads of other federal agencies. A public hearing will be held on September 16, 1980. The Secretary has 60 days from the date of this notice to approve,

conditionally approve or disapprove the final Louisiana program submission.

This approval in part and disapproval in part applies only to the permanent regulatory program under Title V of SMCRA. The partial approval does not constitute approval or disapproval of any provisions related to the implementation of TItle IV of SMCRA, the abandoned mine lands (AML) reclamation program. In accordance with 30 CFR Part 884 (State Reclamation Plans), Louisiana may submit a state AML reclamation plan at any time. Final approval of an AML plan, however, cannot be given by the Director of OSM until the state has an approved permanent regulatory program.

This decision has no effect on federal or Indian lands in Louisiana.

No rules will be promulgated in 30 CFR Part 918 until the Louisiana program has been either finally approved or disapproved following review of the resubmission.

Additional Findings

Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this approval in part.

This document is not a significant rule under E.O. 12044 or 43 CFR Part 14, and no regulatory analysis is being prepared on this approval in part.

Dated: August 28, 1980.

James A. Joseph,

Acting Secretary of the Interior.

[FR Doc. 80-27103 Filed 9-2-80; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 931

Reopening of Public Comment Period on Portions of the New Mexico Permanent Submission for the Regulation of Surface Coal Mining

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Proposed rule; reopening of public comment period on portions of the New Mexico permanent program submission for the regulation of surface coal mining.

SUMMARY: OSM is reopening the period for review and comment on portions of the proposed New Mexico regulatory program until September 11, 1980. The new comment period provides opportunity for the public to review and comment on supplemental information submitted by the New Mexico Energy and Minerals Department and the New Mexico Attorney General's Office after the close of the public comment period on July 28, 1980 and on subjects to be discussed with representatives of the State of New Mexico at an executive session on September 5, 1980.

DATES: All comments must be received on or before 5:00 p.m. on September 11, 1980, to be considered in the Secretary's decision on the proposed New Mexico regulatory program.

Supplemental information submitted by the New Mexico Energy and Minerals Department and Office of the Attorney General for New Mexico are available for review during regular business hours at:

Office of Surface Mining, Brooks Towers, Room 2115, 1020 15th Street, Denver, Colorado 80202, Office of Surface Mining, Department of the Interior, Room 153, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

New Mexico Energy and Minerals Department, Division of Mining and Minerals, First Northern Plaza East, Room 200, Santa Fe, New Mexico 87501.

ADDRESSES: Written comments should be delivered by 5:00 p.m. on September 11, 1980, to:

Office of Surface Mining, Brooks Towers, Room 2115, 1020 15th Street, Denver, Colorado 80202; or

Office of Surface Mining, Department of the Interior, Room 153, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, Interior South Building, 1951 Constitution Avenue, Washington, D.C. 20240 (202) 343-4225.

SUPPLEMENTARY INFORMATION: On August 7, the New Mexico Department of Mining and Minerals and the Office of the Attorney General for New Mexico provided OSM additional information, by letter, relating to citizens suits, administrative and judicial review, inspection and enforcement, performance standards, water rights and replacements, and blaster certification and training. (New Mexico Administrative Record document Number 99.) The new period for public comment is necessary to allow opportunity for the public to review and comment on this supplemental information. Copies of the letters are contained in the Administrative Record, located in the places identified under "Addresses."

On September 5, 1980, staff members of the New Mexico Department of Mining and Minerals will meet in executive session with staff members of the Office of Surface Mining at the OSM office in Washington, D.C. for the purpose of providing additional information on certain aspects of the New Mexico permanent regulatory program. The following subjects are expected to be discussed: performance standards, permitting requirements, water rights and replacements, inspection and enforcement, bonding, administrative and judicial review, and small operators assistance. Specific topics to be discussed are more fully defined in the New Mexico Administrative Record documents number 108 and 109. The new period for public comment is to allow opportunity for the public to review and comment upon these subjects, including any supplemental information which may be provided by New Mexico officials at the September 5, 1980, meeting. Minutes of this meeting will be available in the Administrative record, located in the places identified under "Addresses."

This announcement is made in keeping with OSM's commitment to public participation as a vital component in fulfilling the purposes of the Surface Mining Control and Reclamation Act of 1977.

Dated: August 29, 1980.

Paul L. Reeves,

Acting Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 80-27102 Filed 9-2-80; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 10

Tax Shelters; Practice Before the Internal Revenue Service

AGENCY: Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: Treasury is today releasing for public comment a proposed rule that would amend regulations governing practice before the Internal Revenue Service ("IRS") to set standards for the providing of opinions used in the promotion of tax shelters. The proposed rule would require a practitioner who provides an opinion for a tax shelter to exercise due diligence in representing the facts and Federal tax aspects of the transactions, and in assuring that the opinion is accurately and clearly described in any discussion of tax aspects appearing in the offering materials. The proposed rule would allow a practitioner to provide an opinion for a tax shelter only if the

opinion concluded that it was more likely than not that the bulk of the tax benefits on the basis of which the tax shelter had been promoted are allowable under the tax law.

DATE: Comments must be in writing and must be received on or before November 3, 1980. No hearing is now contemplated but one may be held at a time and place to be set in a later notice in the Federal Register if requested by an interested person desiring an opportunity to comment orally and raising an issue that requires oral amplification. The effective date of the regulation will be the date of publication of final regulations in the Federal Register.

ADDRESSES: Comments should be sent in triplicate to Director of Practice, Department of the Treasury, Washington, D.C. 20220. All comments received will be available for public inspection and copying in the Treasury Library, 15th and Pennsylvania Avenue, NW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Leslie S. Shapiro, Director of Practice, (202) 376-0767.

SUPPLEMENTARY INFORMATION: The proposed rule which Treasury is today releasing for public comment sets standards for IRS practitioners in providing opinions used in the promotion of tax shelters.

Abusive tax shelters are one of the Internal Revenue Service's most serious compliance problems. The IRS has identified approximately 25,000 abusive tax shelters promoted in recent years, involving 190,000 returns and $5.1 billion in adjustments.[1] Apart from the loss in revenue, the widespread nature of such schemes undermines the public's confidence in the fairness of the tax system and may affect the level of voluntary compliance.

A critical element in the typical promotion of an abusive tax shelter is the tax opinion generally provided by the promoter's attorney.[2] The theory of the tax shelter promoter appears to be that the tax opinion, even if qualified or simply incorrect, may provided the investor with assurance that penalties will not be assessed even if deductions and credits taken by the taxpayer are subsequently disallowed. Moreover, promoters also appear to hope that investors will view the practitioner's willingness to provide an opinion, even when the opinion is frankly pessimistic about the chances of ultimately obtaining the promised tax benefits or simply does not purport to address key tax aspects, as an endorsement of the tax shelter.

Four categories of opinions have been identified as causing problems: (1) The opinion that is intentionally false, incompetent, or knowlingly or recklessly misstates the law or the facts; (2) the opinion that purports to rely upon factual representations of the promoter even where certain critical facts are questionable in light of other facts and circumstances of the transaction; (3) the opinion that never actually comes to a conclusion on the tax aspects raised by the particular offering to which it is attached. Variants on this include the opinion based on hypothetical facts and the opinion addressing some but not all key tax aspects; (4) the opinion which states that there is a "reasonable basis" for a taxpayer's claiming the tax benefits on the basis of which the shelter is promoted, but indicating, explicitly or implicitly, that if challenged, the taxpayer probably would ultimately lose.

The Bar has increasingly worried about the providing of these types of opinions, in part because such opinions put significant and unhealthy pressure on the careful practitioner. Such a practitioner may be faced with the unpleasant task of explaining to a client why tax benefits promised in an abusive tax shelter cannot properly be taken even though an opinion by another attorney appears to indicate that they can be taken. The careful practitioner may be offered a substantial fee for an opinion, even if elaborately qualified, which the practitioner knows another will give if he or she does not. There have been suggestions that Treasury amend Circular 230 to provide clear and effective guidance with respect to the providing of tax shelter opinions. Indeed, at its June 9, 1980 meeting the Commissioner's Advisory Group urged such an amendment.

Under the authority conferred by 31 U.S.C. 1026 and 5 U.S.C. 301 to regulate the professional conduct of those who practice before it, Treasury proposes to adopt a rule that would confront the problem of tax attorney opinions in abusive tax shelters by imposing certain duties upon a practitioner providing a tax shelter opinion.

Scope of the Rule

With one exeption, the proposed rule is drawn to apply only to "tax shelter opinions."[3] These are opinions that the practitioner who provides the opinion knows or should know will be "referred to or included in offering materials distributed to parties who are not then (the practitioner's) clients in connection with the promotion of a tax shelter." The proposed rule is not directed at the advice which a tax practitioner gives his or her client. Nor is it intended to deal with the problem addressed in Formal Opinion 314 of the American Bar Association of whether an attorney who is asked to advise his or her client in the course of the preparation of the client's tax returns may freely urge the statement of positions most favorable to the client as long as there is a reasonable basis for those positions.

"Tax shelter" is defined in the proposed rule in terms of transactions "in which the claimed tax benefits are likely to be perceived by the taxpayer as the principal reason for his or her participation." Consideration was given to defining a "tax shelter" in terms of transactions "in which the claimed tax benefits are set forth in the offering materials or otherwise described as a principal reason for the taxpayer's participation," but limiting coverage of the rule to a subset of tax shelters particularly likely to be abusive. Such shelters might be defined as those in which "it is contemplated that the aggregate deductions, credits, and other allowances that a taxpayer may claim within 24 months of his or here initial cash outlay will equal or exceed the amount of such cash outlay (disregarding any cash to be obtained by borrowings, except full-recourse borrowings from financial institutions unrelated to the taxpayer, promoter, or other participants)." Treasury encourages comment on this alternative approach to the definition of tax shelter.

Due Diligence in the Providing of Tax Shelter Opinions

A. *Due diligence as to factual matters.*—Proposed § 10.33(a)(1)(i) requires the practitioner who provides a tax shelter opinion to exercise "due diligence" to assure that the opinion (or offering material) adequately discloses those facts which bear significantly on each important Federal tax aspect of the shelter. A tax shelter opinion should be based upon the actual facts of the transaction. Thus a tax shelter opinion that relied on hypothetical facts in arriving at its conclusions would not be acceptable. Such an opinion too readily

[1] Not all tax shelters are abusive. An "abusive" tax shelter may be generally described as a transaction without any significant economic purpose other than the generation of tax benefits that typically employs exaggerated valuations and otherwise mischaracterizes critical aspects of the transaction.

[2] Although the discussion is cast in terms of attorneys' opinions, much of the analysis would apply to opinions rendered by certified public accountants and others entitled to practice before the IRS. The rule covers all such practitioners.

[3] As a clarification of § 10.51, the providing of an intentionally or recklessly false opinion, or a pattern of providing incompetent opinions in Federal tax matters (not just in tax shelters), is specifically identified as an instance of disreputable conduct.

lends itself to abuse in a tax shelter promotion.

What constitutes "due diligence" in assuring the accuracy of facts depends on the circumstances. Due diligence ordinarily includes the duty to examine any offering materials and to be satisfied that the facts upon wich the opinion is based are accurate and complete. "Due diligence" requires the practitioner to be alert to inconsistencies or implausibilities in the facts as presented to him or her and to resolve any doubts before rendering an opinion.

For example, if the offering materials refer to an appraisal of property to be acquired by an investor, the practitioner should ordinarily review the appraisal and the appraiser's credentials and consider whether the terms and conditions on which the property will be sold are consistent with the purported valuation. If doubts about valuation cannot be resolved to the practitioner's satisfaction, the practitioner should not provide an opinion.

B. *Due diligence as to tax law matters.*—Proposed § 10.33(a)(1)(ii) generally requires the practitioner who provides a tax shelter opinion to use "due diligence" to assure that the opinion adequately describes and sets forth a conclusion with respect to each important Federal tax aspect of the transaction. In the opinion the practitioner must state a conclusion as to likely legal outcomes. An opinion that merely presents opposing views or merely states that there is a "reasonable basis" for a particular view without assessing the likely legal outcome does not meet the standard of the proposed rule.

However, in rare cases, *e.g.*, an inability to predict legal results because of internal inconsistency in a statute or inconsistency between literal statutory language and the overall legislative scheme, and the absence of helpful IRS regulations or case law, good professional practice may dictate that it would be inappropriate to set forth a conclusion as to a particular Federal tax aspect. When a practitioner can demonstrate the existence of such circumstances, a conclusion as to likely legal outcome will not be required as to that tax aspect. The phrase in proposed Paragraph (a)(i)(ii), "unless inappropriate under good professional practice," is intended to accomplish this result. This provision in no way modifies the requirement in proposed Paragraph (a)(2) that a practitioner may provide a tax shelter opinion only if he or she concludes that it is more likely than not that the bulk of the benefits on the basis of which the shelter has been promoted are allowable under the tax law.

Under the definition of "important Federal tax aspect" proposed in Paragraph (c)(4), the practitioner is required to give an opinion on all tax benefits on the basis of which the tax shelter is promoted. Moreover, there may be some Federal tax aspects which are significant in relation to the total tax benefits which may be claimed from the shelter that are not discussed or emphasized in the offering materials. For example, frequently offering materials do not discuss the consequences of recapture of tax benefits obtained, which may result in adverse tax consequences so substantial as to constitute an important Federal tax aspect. The practitioner must address such issues, as "important Federal tax aspects," in the opinion.

In certain circumstances a practitioner may be asked or may request to provide an opinion on some but not all of the important Federal tax aspects. For example, a practitioner with a very specific speciality may not want to opine on a broad range of issues. Paragraph (b)(1) permits a practitioner to provide an opinion in such circumstances if opinions by other practitioners fill in the gaps. The other opinions must be disseminated in the same way as the practitioner's. This includes, for example, discussion in the offering materials if the practitioner's opinion is discussed there. Additionally, the practitioner, upon reviewing the other opinions, and the offering materials, must have no reason to believe that the requirements of adequate factual and legal disclosure have been violated in connection with such other opinions. The required review calls for at least a careful reading, but, in the absence of significant differences with the practitioner's view of the law or discrepancies with the practitioner's knowledge of the facts, does not entail an audit of legal or factual conclusions in the other opinions.

C. *Due diligence as to description in offering materials.*—Proposed § 10.33(a)(1)(iii) requires the practitioner who provides a tax shelter opinion to exercise "due diligence" to assure that the opinion is adequately described in any discussion of tax aspects appearing in any offering materials. A practitioner ordinarily has control over the use to which his or her opinion may be put and thus has the responsibility to take reasonable steps (such as insisting on a review of offering materials) to assure that the opinion is accurately and clearly described.

D. *Due diligence generally.*—"Due diligence is a concept which is defined to a substantial extent by the standards prevalent in good professional practice. Thus Treasury particularly welcomes comment by professional groups, including opinions by ethics committees, as to their views of what constitutes due diligence in a variety of circumstances. Standards of practice agreed on by recognized professional groups will be an important factor in guiding Treasury enforcement activity in this area.

"More Likely Than Not" Standard for Providing Opinions

Proposed § 1033(a)(2) allows the practitioner to provide a tax shelter opinion only if the opinion concludes that it is "more likely than not" that the bulk of the tax benefits on the basis of which the shelter has been promoted are allowable under the tax law. The proposed rule requires only a statement of the opinion of the practitioner as to his or her view of the law. A practitioner is entitled to disagree with the position of the Internal Revenue Service, so long as he or she honestly believes the courts would ultimately sustain the position he or she advises. It should be noted, however, that an opinion which is intentionally or recklessly misleading, or which is part of a pattern of providing incompetent opinions, will be regarded as an instance of disreputable conduct under § 10.51. This is made clear by proposed § 10.51(j). An opinion that reaches a conclusion with which no reasonable practitioner could concur is likely to be either intentionally or recklessly misleading.

The "bulk of the tax benefits" language is not a precise directive, but it means substantially more than 51%. The term also indicates a rejection of a possible alternative of requiring a positive conclusion for each important Federal tax aspect. What constitutes the "bulk of the tax benefits" will frequently become apparent from the substance of a particular transaction and its presentation in offering materials. For example, in a tax shelter promising deductions, credits, and other allowances in a ratio of 5 to 1 of the investor's initial cash outlay, a conclusion that it is more likely than not that a 4 to 1 ratio will be allowable meets the standards of Paragraph (a)(2).

Also, in some circumstances a practitioner who has properly provided an opinion on just some of the important Federal tax aspects may not be able to determine whether the "more likely than not" test can be met for the "bulk of the tax benefits." To avoid needless duplication of work, under Paragraph (b)(2) the practitioner may provide an

opinion if another opinion, upon which he or she has properly relied for purposes of Paragraph (b)(1), meets the test of Paragraph (a)(2). The practitioner may also rely on conclusions in such other opinions to provide an opinion complying with Paragraph (a)(2). Thus at least one practitioner must ultimately review all important Federal tax aspects of a tax shelter and conclude that the test of Paragraph (a)(2) has been met.

Special Disclosure Alternative

The rule of Paragraph (a)(2) constitutes a significant step in the regulation of tax practitioners. For example, present professional practice standards indicate that a tax practitioner can properly advise a client to take a deduction with respect to a consummated transaction so long as the practitioner in good faith believes there is a reasonable basis for such a position, even though he or she also believes that the deduction would ultimately be disallowed. ABA Opinion 314.

The theory of Paragraph (a)(2) is that tax practitioners have greater responsibility when their opinions are used to help merchandise an investment proposal to persons who are not their clients.[4] The prohibition of Paragraph (a)(2) also recognizes that, in contrast to the Securities and Exchange Commission's primary concern with investor protection in tax shelter promotions, the Treasury is primarily concerned about the possible defrauding of the Government. In many tax shelter promotions the true victim is the Treasury. Investors seek to evade their fair share of the taxes, and disclaimers as to the weakness of the scheme may not sufficiently deter the successful promotion of these ventures. An effective deterrent may be to forbid participation by tax practitioners because their participation suggests their endorsement of the promotion. A prohibition also eliminates use of the opinion as insurance against fraud or negligence penalties if the benefits are ultimately disallowed.

On the other hand, some thoughtful practitioners have argued that there is nothing unprofessional or disreputable in a tax practitioner permitting the circulation of a competent opinion which sets forth the risks that the proposed tax shelter will not provide the hoped for benefits, especially if adequate disclosure is made of the negative aspects of the opinion. The following language has been suggested as a possible way of meeting this point:

"(c) *Special Disclosure.* A practitioner may provide a tax shelter opinion that does not comply with Paragraph (a)(2) hereunder if the risks of not obtaining tax benefits are clearly and forcefully explained in the opinion and if he or she exercises due diligence to assure that such explanation appears in any materials used to promote the tax shelter. A clear and forceful explanation normally would include a highlighted statement on the first page of any offering materials, the first page of the practitioner's opinion, and at the head of any other discussion of tax aspects in the offering materials that it is 'unlikely that the bulk of the tax benefits on the basis of this tax shelter transaction is promoted are allowable under the tax law'".

The proposed rule has not adopted this suggestion because tax shelter opinions not meeting the standards of paragraph (a)(2) are inherently subject to abuse. A promoter who would use a negative opinion as part of the offering materials is expecting investors either not to read the opinion, not to understand the opinion, or to view it as insurance against the imposition of penalties if the claimed tax benefits are ultimately disallowed. The disclosure alternative does not appear adequately to respond to these concerns. Comment is specifically invited on the issues raised by the disclosure alternative.

Other

A proposed amendment to § 10.51 will make clear what is already implied by that section, that the providing of intentionally or recklessly false opinions, or a pattern of providing incompetent opinions in Federal tax matters (not just tax shelter matters) is an instance of disreputable conduct.

A proposed amendment to § 10.52 will allow disbarment or suspension from practice before the Internal Revenue Service for violation of proposed § 10.33 and §§ 10.22 and 10.50. The standard of these sections make the requirement of willfulness in present § 10.52 inappropriate.

Drafting Information

The principal draftsman is Jeffrey N. Gordon, special assistant to the General Counsel of the Treasury.

Authority

These proposed rules are issued under authority of Sec. 3, 23 Stat. 258, secs. 2–12, 60 Stat. 237 et seq.; 5 U.S.C. 301; 31 U.S.C. 1026; Reorg. Plan No. 26 of 1950, 15 FR 4935, 65 Stat. 1280, 3 CFR, 1949–53 Comp., p. 1017.

Proposed Amendments to the Regulations

In consideration of the foregoing, it is proposed to amend Part 10 of 31 CFR by adding a new § 10.33, by adding a new § 10.51(j), and by revising existing § 10.52 as follows:

Section 10.33 is proposed to be added to read as follows:

§ 10.33 Tax Shelter Opinions.

(a) *General Rule.* A practitioner who provides a tax shelter opinion

(1) Shall exercise due diligence to assure that

(i) The opinion or the offering material fully and fairly discloses those facts which bear significantly on each important Federal tax aspect and

(ii) The opinion fully and fairly describes and, unless inappropriate under good professional practice, states a conclusion as to the likely legal outcome with respect to each important Federal tax aspect, and

(iii) The opinion is accurately clearly described in any discussion of tax aspects appearing in any offering materials and

(2) Shall provide the opinion only if the opinion concludes that it is more likely than not that the bulk of the tax benefits on the basis of which the shelter has been promoted are allowable under the tax law.

(b) *Reliance on Other Opinions.* (1) Notwithstanding Paragraph (a)(1)(ii), a practitioner may provide an opinion on fewer than all of the important Federal tax aspects if

(i) Other practitioners provide opinions on the other important Federal tax aspects which are disseminated in the same manner as the practitioner's opinion, and

(ii) The practitioner, upon reviewing such other opinions and any offering materials, has no reason to believe that the standards set forth in Paragraph (a)(1) have been violated.

(2) In providing an opinion under Paragraph (b)(1), the practitioner is not required to comply with Paragraph (a)(2) at least one other opinion properly relied upon for purposes of Paragraph (b)(1) satisfies the standard of Paragraph (a)(2).

(3) In providing an opinion under

[4] The proposed rule takes no position on a tax practitioner's responsibility in tax planning for his or her client, where the practitioner may be called on to structure a transaction to obtain certain tax benefits which he or she believes would ultimately be disallowed but as to which there is a reasonable basis.

Paragraph (b)(1) that also seeks to meet the standard of Paragraph (a)(2), the practitioner may rely on conclusions in opinions properly relied upon for purposes of Paragraph (b)(1).

(c) *Definitions.* For purposes of § 10.33:

(1) "Practitioner" is any person authorized under § 10.3 to practice before the Internal Revenue Service.

(2) "Tax shelter" is a sale, offering, syndication, promotion, investment or other transaction in which the claimed tax benefits are likely to be perceived by the taxpayer as the principal reason for his or her participation.

(3) "Tax shelter opinion" is written advice relating to the Federal tax law which the practitioner providing such advice knows or reasonably should know will be referred to or included in offering materials distributed to parties who are not then his or her clients in connection with the promotion of a tax shelter.

(4) "Important Federal tax aspect" is any Federal tax aspect on the basis of which the tax shelter is promoted in whole or in part or which is significant in relation to the total tax benefits which may be claimed from the tax shelter. Frequently the recapture of tax benefits obtained may result in adverse tax consequences so substantial as to constitute an important Federal tax aspect.

Section 10.51 is proposed to be amended by adding paragraph (j) as set forth.

§ 10.51 Disreputable conduct.

* * * * *

(j) Giving an intentionally or recklessly misleading opinion, or a pattern of providing incompetent opinions, on questions arising under the Federal tax laws.

Section 10.52 is proposed to be revised as follows:

§ 10.52 Violation of regulations.

In addition to the grounds set forth in § 10.51, any attorney, certified public accountant, or enrolled agent or other eligible individual may be disbarred or suspended from practice before the Internal Revenue Service for violation of §§ 10.22, 10.33, or 10.50 or for willful violation of any of the other regulations contained in this part.

Dated: August 29, 1980.

Robert H. Mundheim,

General Counsel, U.S. Department of the Treasury.

[FR Doc. 80-26996 Filed 9-3-80; 8:45 am]

BILLING CODE 4810-25-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1596-4]

Georgia: Approval of 1979 TSP Revisions; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is today proposing full approval of the revisions which the State of Georgia submitted pursuant to Part D of Title I of the Clean Air Act for particulate nonattainment areas in Atlanta and Savannah. EPA gave conditional approval to the revisions on September 18, 1979 (44 FR 54047). Under the terms of the conditional approval, the State was required to correct deficiencies in the revisions by February 15, 1980. Specifically, by that date the State was to:

(a) Inspect all sources which may impact the TSP areas in Atlanta and Savannah;

(b) Submit to EPA a report of their inspections describing the existing controls;

(c) Prescribe in the industries' permits, a schedule for implementing RACT.

These conditions have been met by the Georgia Environmental Protection Division. Therefore, Georgia's Part D revisions for TSP are proposed to be fully approved. The correction of the deficiencies is described below in detail in the Supplemental Information.

DATES: To be considered, comments must be submitted on or before October 6, 1980.

ADDRESSES: Written comments should be addressed to Mr. Melvin Russell of EPA Region IV's Air Programs Branch (See EPA Region IV address below). Copies of the materials submitted by Georgia may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

Library, Environmental Protection Agency, Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Mr. Melvin Russell, EPA Region IV, Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365, 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION:

Background

In the May 9, 1979, Federal Register (44 FR 27134) EPA proposed approval of the Georgia revisions for the following designated total suspended particulate nonattainment areas:

A. That portion of Fulton County within the northwest section of Atlanta (primary and secondary standards).

B. That portion of Chatham County within the north central section of Savannah (primary and secondary standards).

C. That portion of the northern part of Walker County which includes Rossville (primary and secondary standards).

D. That portion of Washington County within the southern section of Sandersville (secondary standards).

In the September 18, 1979, Federal Register (44 FR 54047) EPA conditionally approved Georgia's TSP nonattainment plans for Atlanta (Fulton County) and Savannah (Chatham County). Also, EPA approved the State's TSP plan for Rossville, (Walker County), and stated EPA's policy on redesignation as it would apply to the Sandersville (Washington County) nonattainment area. Therein EPA also granted 18-month extensions (to July 1980) for submittal of the nonattainment plans for attaining the TSP secondary standard in Atlanta, Savannah and Rossville. On December 6, 1979 (44 FR 70143), EPA redesignated Sandersville as attainment for total suspended particulate (TSP), in accordance with Agency policy. Therefore Atlanta and Savannah remained as the only TSP areas with deficient nonattainment plans.

The State has met the conditions stated in the Summary section of this preamble. On December 27, 1979, the State submitted to EPA part of the necessary corrective material. EPA reviewed the material and presented comments at the subsequent public hearing held on January 31, 1980. The remainder of the material necessary to correct the deficiencies was submitted to EPA on April 8, 1980.

The December 27, 1979 submittal included enforceable permit conditions for controlling fugitive emissions at the Martin Marietta Cement Company in Atlanta. The Martin Marietta permit includes a schedule which requires all RACT controls to be fully operational by July 30, 1980. EPA finds the schedule to be as expeditious as practicable.

The April 8, 1980, submittal included inspection reports for the twenty-two sources that EPA had selected as sources that could impact the TSP nonattainment areas in Atlanta and Savannah.

EPA has reviewed both submittals and finds the actions taken and proposed by the State to be adequate. Where necessary the State has described in the sources' permits the

necessary reasonably available control technology (RACT) requirements; in other cases the sources were already meeting RACT requirements.

The April 8, 1980, submittal includes permit conditions for all sources that were required to take additional measures to reduce emissions. These permit conditions are not in the form of schedules; however, the Georgia Environmental Protection Division (EPD) had legally enforceable fugitive dust regulations which impowers the Georgia EPD with the authority to require and enforce the permit conditions listed.

All requirements of the conditional approval announced on September 18, 1979 (44 FR 54047), have been met. Therefore, EPA proposes to approve Georgia's Part D revisions for total suspended particulate.

Proposed Action

Based on the foregoing, EPA is proposing to fully approve the State of Georgia Part D SIP revisions since the material submitted by the Georgia Environmental Protection Division meets the conditions of the September 18, 1979, Conditional Approval.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures.

EPA labels these other regulations "specialized." EPA has reviewed these regulations and determined that they are specialized regulations not subject to the procedural requirements of Executive Order 12044.

(Sections 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: August 1, 1980.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 80-28976 Filed 9-3-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1591-8]

State of Delaware; Proposed Corrections to Conditionally Approved Portions of the Delaware State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: The State of Delaware has submitted amendments to its State implementation Plan to EPA for approval. the amendments consist of changes to the definitions section, the section on control of volatile organic compounds emissions and requirements for preconstruction review. The purpose of these amendments is to corret conditionally approved portions of Delaware's Part D nonattainment plan.

DATE: Comments on these proposed revisions of the Delaware SIP should be submitted on or before October 6, 1980.

ADDRESSES: All comments should be addressed to: Acting Chief (3AH10), Air Programs Branch, U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, PA 19106, ATTN: AH301 DE.

Copies of the materials submitted by the State of Delaware are available for pubic inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, 6th & Walnut Streets, Philadelphia, PA 19106, ATTN: Patricia Sheridan.

Public Information Reference Unit, EPA Library, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Harold A. Frankford (3AH12), Air Programs Branch, U.S. Environmental protection Agency, Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106, Telephone Number: (215) 597-8392.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978, 43 FR 8962, and September 12, 1978, 43 FR 40502, pursuant to Section 107 of the Clean Air Act (the Act), the Administrator designated the New Castle County, Delaware portion of the Metropolitan Philadelphia Interstate Air Quality Control Region (AQCR) as a nonattainment area for ozone (O_3). As a consequence, the State of Delaware was required to develop, adopt, and submit to EPA revisions to its SIP for this nonattaninment area.

On May 3, 1979, the State of Delaware submitted revisions of its State Implementation Plan in response to the requirements of part D of the Act. The Plan consisted of amendments to Regulations I (Definitions), new Regulations XXIV (Control of Volatile Organic Compounds Emissions), and XXV (Requirements for Preconstruction Review), transportation control measures, a motor vehicle inspection/maintenance (I/M) program, and commitments to implement the necessary transportation control and I/M measures. This Part D nonattainment plan was proposed as a revision of the Delaware SIP on July 25, 1979, 44 FR 43490, and approved in part as a plan revision on March 6, 1980, 45 FR 14551. Portions of Delaware's submission were approved on the condition that certain elements of the plan did not fully meet the criteria for approval be revised by the State, proposed for public comment by the State at a public hearing, and submitted to EPA within a timely fashion. EPA requested public comment on the acceptability of a February 29, 1980 submittal date, 45 FR 14606 (1980), for revisions to the deficient portions of Regulations I, XXIV and XXV.

On March 19, 1980, the State of Delaware formally submitted amendments to Regulations I, XXIV and XXV. The State also provided proof that public hearings were held on December 11, 1979 and December 12, 1979 in accordance with the requirements of 40 CFR 51.4. The amendments consist of the following changes:

Regulation I—Definitions

In response to EPA's conditional approval action, 45 FR 14551, Delaware has revised Regulation I by adding a definition for "emulsified asphalt" and revising the definitions for "lowest achievable emission rate" and "vapor tight".

Regulation XXIV—Control of Volatile Organic Compounds Emissions

1. In respose to EPA's conditional approval action, Delaware has submitted the following amendments:

a. Sections 4.1A, 4.2D, 6.1, 6.2D, 7.1B, 8.4 and 10.4 are amended to specify increments of progress towards achieving compliance with the applicable emission standards. At the same time, Sections 1.6, 1.7, and 1.8 are added to provide for alternative compliance schedules and increments of progress.

b. Sections 5.4, 7.1A and 11.5 are added to provide test procedures for dtermining compliance with regulations covering delivery vessels, bulk gasoline terminals, cold cleaning facilities, open top vapor degreasers, and conveyorized degreasers.

c. Section 12.2 is added to require that the solvent constituents of emulsified asphalt shall not exceed 7.0% by volume as determined by ASTM Distillation Test D-244.

d. Section 9.2 is amended to state that the 40 pounds per day exemption (VOC emissions) for surface coating operations apply to the total emissions rate from all coating lines within a stationary source.

2. Delaware has submitted the following additional amendments:

a. Section 1.5 is amended to clarify the requirements for submitting a permit application by any person subject to the final compliance dates of the provisions in Regulation XXIV.

b. Section 4.2B5 is amended to control displaced gasoline vapors during loading of any stationary storage vessels (rather than any stationary vessel located above ground).

c. Sections 4.3B, 6.2B6, 7.2F, and 9.4 are amended to make clarifying wording changes.

d. The provision of Sections 4.2B1, 4.2B3, and 4.2B5 are moved to Section 5.3.

e. Additional amendments to Section 5 (delivery vessels) revise the final complaince date, outline the permit application procedures, and prohibit the release of any volatile organic vapors from any vapor tight delivery vessel.

f. Section 9.3 (which refers to the Chart in Table 1) is revised. The 2.8 pounds per gallon emission limitation for surface coatings becomes effective in 1985. An interim emission limitation of 3.0 pounds per gallon becomes effective in 1980. The 4.8 pounds per gallon emission limitations for final repair becomes effective in 1985. An interim emission limitation of 6.5 pounds per gallon becomes effective in 1982.

g. Section 11 is amended by requiring a carbon adsorption system rather than a carbon absorption system. Section 11.1A(3)(iv) is amended to specify a ventilation rate for the carbon adsorption system. In addition, the requirements of Sections 11.2C(5) and 11.3B(5), referring to certain equipment specifications, are deleted. The effective dates of the provisions of Section 11.2, previously specified in Section 11.2B and 11.2C, are now specified in Section 11.4

Regulation XXV—Requirements for Preconstruction Review

Section 2E—The definition of "reconstruction" is expanded to include facilities as well as sources. In addition reconstructed source must apply the lowest achievable emission rate (LAER) in nonattainment areas.

Submittal of Transportation Measures

An additional condition for approval required the State to submit a specific commitment to use available grants and funds to establish, expand, and improve public transportation to meet basic transportation needs. In response to this condition, the Wilmington Metropolitan Area Transportation Coordinating Council (WILMAPCO), which is the certified Section 174 agency for New Castle County, has submitted this "basic transportation needs" commitment as part of its Unified Planning Work Program. EPA's formal approval of WILMAPCO's commitment will remove the aforementioned condition from the Delaware SIP.

Submittal of Public Comments

The public is invited to submit to the address stated above, comments on whether the amendments to Regulations I, XXIV, and XXV submitted by Delware are acceptable. All comments submitted on or before (30 days after publication date of this notice) will be considered.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401–642)

Dated: July 15, 1980.

Alvin R. Morris,

Acting Regional Administrator.

[FR Doc. 80-27151 Filed 9-3-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 162

[FRL 1598-3, OPP-00127B]

FIFRA Scientific Advisory Panel, Cancellation of Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule related notice.

SUMMARY: The two-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel scheduled for September 4 and 5, 1980, has been cancelled.

FOR FURTHER INFORMATION CONTACT: H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel (TS–766), Office of Pesticide Programs, Environmental Protection Agency, Rm. 803, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA, 22202 (703–557–7560).

SUPPLEMENTARY INFORMATION: The two-day meeting of the FIFRA Scientific Advisory Panel on September 4 and 5, 1980, as announced in the Federal Register of Thursday, August 14, 1980 (45 FR 54094), has been cancelled. The topics on the agenda included a review of the Panel on proposed rulemaking on Subpart M: Data Requirements for Biorational Pesticides and on Subpart N: Chemistry Requirements, Environmental Fate, of the Guidelines for Registering Pesticides in the United States. The agenda for the meeting was later changed to eliminate the review of Subpart M. Notice of this agenda change appeared in the Federal Register of Friday, August 29, 1980 (45 FR 57749). The meeting has been cancelled because the agency's position is not ready for review.

(Sec. 25(d), as amended, 92 Stat. 819 (7 U.S.C. 136); sec. 10(a)(2), 86 Stat. 770 (5 U.S.C. App.))

Dated: August 29, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-27161 Filed 9-3-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 180

[FRL 1596-6; PP 9E2224/P151]

Trifluralin; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for the herbicide and plant regulator trifluralin in or on upland cress at 0.05 part per million (ppm). This proposal was submitted by the Interregional Research Project No. 4 (IR–4). This amendment will establish a maximum permissible level for residues of trifluralin on upland cress.

DATE: Comments must be received on or before October 6, 1980.

ADDRESS: Spend comments to: Clinton Fletcher, Registration Division (TS–767), Office of Pesticide Programs, Rm. E–124, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Clinton Fletcher (202–426–0223).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition No. PP 9E2224 to EPA on behalf of the IR–4 Technical Committee and Agricultural Experiment Station of Tennessee.

This petition requested that the Administrator, pursuant to Section 408(e) for the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the herbicide and plant regulator trifluralin (a,a,a-trifluoro-2, 6-dinitro-*N*, *N*-dipropyl-*p*-toluidine) in or on the raw agricultural commodity upland cress at 0.05 ppm.

The data submitted in the petition and all other relevant material have been evaluated. The pesiticide is considered useful for the purpose for which the tolerance is sought. The toxicology data considered in support of the proposed tolerance of 0.05 (ppm) in or on upland cress were 2 two-year rat feeding studies with no-observed-effect levels

(NOEL) of 2,000 ppm, 2 two-year and a three-year dog feeding studies with NOEL's of 400 ppm, a dog breeding study with a NOEL of 400 ppm; a four-generation rat reproduction study with a NOEL of 200 ppm; a continuous breeding rat study with a NOEL of 2,000 ppm. Oncogenicity tests conducted by the National Cancer Institute (NCI) with trifluralin technical chemical in rats and mice indicated the chemical is not oncogenic in rats nor in male mice under the terms of the bioassay. Hepatocellular carcinomas and alveolar/bronchiolar adenomas were observed in female mice (including controls), but the incidence appeared to be possibly related to the presence of a dipropylnitrosamine contaminant *N*-nitroso-di-*N*-propylamine (NDPA) was found in the trifluralin used in the test at concentrations of 84–88 ppm.

The acceptable daily intake (ADI) for trifluralin is calculated to be 0.1 mg/kg of body weight (bw)/day based on a NOEL of 400 ppm in the 3 long-term dog feeding studies and using a 100 fold-safety factor. The maximum permitted intake (MPI) for a 60 kg person is caluclated to be 6 mg/day. The theoretical maximum residue contribution (TMRC) for all existing tolerances for trifluralin is calculated to be 0.429 mg/day/1.5 kg daily diet, or 0.72% of the ADI.

The requested action has no significant impact on increasing the TMRC. On August 30, 1979, the Agency published in the Federal Register (44 FR 50911) a notice of determination and availability of a position document concerning trifluralin. After extensive review, the Agency determined that benefits outweighed the risks for all uses if the formulated products contained less than 1 ppm of NDPA. The proposed formulations for the accompanying use contains trifluralin with less than 1 ppm of NDPA. Nitrosamines of trifluralin are not expected to cause residue problems.

The metabolism of trifluralin is adequately understood and an adequate analytical method (gas chromatography) is available for enforcement purposes. Upland cress is not an animal feed item; therefore there is no expectation of residues in meat, milk, poultry, and eggs resulting from this use. Tolerances have previously been established for residues of trifluralin ranging from 0.05 ppm to 2.0 ppm in a number of raw agricultural commodities.

Thus, based on the above information considered by the Agency and the insignificance of upland cress in the diet, it is concluded that the tolerance of 0.05 ppm in or on upland cress established by amending 40 CFR Part 180 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insectide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before October 6, 1980, that this rulemaking proposal be referred to an advisory committee in accordance with Section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP 9E2224/P151". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of Clinton Fletcher, from 8:00 a.m. to 4:00 p.m., Monday through Friday.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec.408(e), 68 Stat. 514 (21 U.S.C. 346a(e))

Dated: August 26, 1980.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

It is proposed that Subpart C of 40 CFR Part 180 be amended by alphabetically inserting "upland cress" in the table in § 180.207 to read as follows:

§ 180.27 Trifluralin; tolerances for residues.

* * * * *

Commodity	Part per million
* * * * *	
Upland cress	0.05
* * * * *	

[FR Doc. 80-28073 Filed 9-3-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-5886]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872, (in Alaska and Hawaii call Toll Free Line (800) 424–9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4 (a).

These elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The

community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities.

These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Connecticut	Bolton, Town, Tolland County	Blackledge River	Downstream Corporate Limits	*534
			Upstream Footbridge Abutments	*540
			Upstream side of Lyman Road	*549
			Upstream side of Wooden Footbridge	*553
			Downstream side of Deming Road	*560
			Approximately 60' upstream of Deming Road	*565
	Maps available at the Town Clerk's Office, Town Hall, 222 Bolton Center Road, Bolton, Connecticut.			
	Send comments to Honorable Henry P. Ryba, First Selectman of Bolton, 222 Bolton Center Road, Bolton, Connecticut 06040.			
Florida	Bradenton (City), Manatee County	Wares Creek	100 feet upstream from center of Manatee Avenue West	*8
			Intersection of creek and center of 21st Avenue West	*10
		Gulf of Mexico	Intersection of Manatee River and center of 8th Avenue West	*8
			Intersection of State Highway 64 and Flamingo Road	*11
	Maps available for inspection at City Hall, Bradenton, Florida.			
	Send comments to Honorable Bill Evers, P.O. Box 730, Bradenton, Florida 33506.			
Florida	Kenneth City (Town), Pinellas County.	Joe Creek	Intersection of 62nd Street North and 43rd Avenue North	*18
			Intersection of Joe Creek Drive and 56th Avenue	*23
	Maps available for inspection at 4600 58th Street North, Kenneth City, Florida.			
	Send comments to Honorable Clinton R. White, 4600 58th Street North, Kenneth City, Florida.			
Florida	Palmetto (City), Manatee County	Gulf of Mexico (Manatee River)	Intersection of 11th Street West and 20th Avenue West	*8
	Maps available for inspection at 516 8th Avenue, Palmetto, Florida.			
	Send comments to Honorable Joseph J. Holland, 516 8th Avenue, Palmetto, Florida 33561.			
Florida	Seminole (City), Pinellas County	Boga Ciega Bay	Intersection of State Route 595 and State Route 699	*11
	Maps available for inspection at 7464 Ridge Road, Seminole, Florida.			
	Send comments to Honorable Juanita Gesling, 7464 Ridge Road, Seminole, Florida.			
Georgia	City of Duluth, Gwinnett County	Chattahoochee River	Just upstream of McClure Bridge Road	*900
			Just upstream of State Highway 120	*903
			Just downstream of Rogers Bridge Road	*906
		Chattahoochee River Tributary	Just downstream of Howell Ferry Road	*920
			Just upstream of Howell Ferry Road	*925
	Maps available for inspection at Duluth City Hall, 3508 Lawrenceville Street, Duluth, Georgia.			
	Send comments to Mayor Mason or Ms. Helen, City Clerk, City Hall, 3508 Lawrenceville Street, Duluth, Georgia 30136.			
Illinois	(V) Burnham, Cook County	Grand Calumet River	At Torrence Avenue	*581
			About 100 feet upstream of Burnham Avenue	*581
	Maps available for inspection at the Burnham village Hall, Clerk's Office, 13925 Entre Avenue, Chicago, Illinois.			
	Send comments to Honorable Eldreth A. Rundlett, Village President, Village of Burnham, Burnham Village Hall, 13925 Entre Avenue, Chicago, Illinois 60633.			
Illinois	(C) Chicago, Cook County	North Branch Chicago River	At the weir about 200 feet upstream of the confluence with North Shore Channel.	*589
			Just upstream of North Ridgeway Avenue foot bridge	*596
			About 1,000 feet upstream of North Pulaski Road	*599
		Des Plaines River	Just upstream of West Belmont Avenue	*624
			Just downstream of West Higgins Road	*627
		Willow Creek	About 3,200 feet downstream of State Route 72	*633
			Just upstream of Soo Line Railroad	*640
			About 2,900 feet upstream of Wolf Road	*647
	Maps available for inspection at the City Hall Library, 10th Floor, City Hall, 121 North La Salle Street, Chicago, Illinois.			
	Send comments to Honorable Jane M. Byrne, Mayor, City of Chicago, City Hall, 121 North La Salle Street, Chicago, Illinois 60602.			
Illinois	(V) Fayetteville, St. Clair County	Kaskaskia River	About 1,050 feet downstream of U.S. Route 15	*396
			About 1,450 feet upstream of U.S. Route 15	*397
	Maps available for inspection at the Village Clerk's Office, Fayetteville, Illinois and at the Village Hall, Fayetteville, Illinois.			
	Send comments to Honorable Dallas Funk, Village President, Village of Fayetteville, Route 2, Box 252, Mascoutah, Illinois 62258.			
Illinois	(V) Lansing, Cook County	Little Calumet River	Torrence Avenue	*599
			Illinois-Indiana State Line	*599
		North Creek	At Oakwood Avenue (downstream corporate limit)	*612
			About 1,100 feet upstream of Wentworth Avenue at corporate limit	*612
		Lansing Ditch	Confluence with North Creek	*612
			Just downstream of Burnham Avenue	*614
			Just upstream of Burnham Avenue	*615
			3,900 feet upstream of Burnham Avenue at upstream corporate limit	*615
	Maps available for inspection at the Village President's Office, Village Hall, Ridge Road & Chicago Avenue, Lansing, Illinois.			
	Send comments to Honorable Louis L. LaMourie, Village President, Village of Lansing, Village Hall, Ridge Road and Chicago Avenue, Lansing, Illinois 60438.			

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(V) Lynwood, Cook County	Lansing Ditch	Downstream corporate limit	*615
			Just upstream of 204th Street	*617
			Upstream corporate limits (about 2,800 feet upstream of Glenwood-Dyer Road).	*627
		Shallow Flooding (overflow from Tributary A of North Creek).	Intersection of 202nd Street and Burnham Avenue	#1
			About 100 feet west of intersection of 201st Street and Park Avenue	#1
			About 100 feet east of intersection of Glenwood-Lansing Road and Torrence Avenue.	#1
Maps available for inspection at the Office of the Village Clerk, Village Hall, 3107 East Lynwood-Dyer Road, Lynwood, Illinois.				
Send comments to Honorable Rudolph J. Salehar, Village President, Village of Lynwood, Village Hall, 3107 East Lynwood-Dyer Road, Lynwood, Illinois 60411.				
Illinois	(V) Roselle, Cook and Du Page Counties.	Spring Brook	About 770 feet downstream of Foster Avenue	*723
			Approximately 80 feet downstream of private drive	*726
			Just upstream of private drive	*729
			Approximately 60 feet downstream of Walnut Avenue	*738
			Just upstream of Walnut Avenue	*742
			Just Downstream of Turner Avenue	*744
			Approximately 100 feet downstream of Bryn Mawr Avenue	*745
			Just upstream of Bryn Mawr Avenue	*747
			Approximately 230 feet downstream of Pine Avenue	*753
			Approximately 40 feet upstream of inlet to culvert (long culvert between Pine Avenue and Hill Street).	*762
			Just upstream of Hill Street	*765
			Approximately 40 feet downstream of Central Avenue	*776
			Just upstream of Central Avenue	*781
			Approximately 420 feet upstream of Central Avenue	*781
Maps available for inspection at the Village Clerk's Office, Municipal Building, 31 South Prospect, Roselle, Illinois.				
Send comments to Honorable Joseph Devlin, Village President, Village of Roselle, Municipal Building, 31 South Prospect, Roselle, Illinois 60172.				
Indiana	Clarksville, Town, Clark County	Ohio River	Downstream Corporate Limits	*448
			Upstream Corporate Limits	*450
		Silver Creek	Confluence with Ohio River	*448
			1,584' upstream of Chesse System at Corporate Limits	*448
			Approximately 2,600' downstream of Interstate Route 265 at Corporate Limits.	*448
			Upstream of Interstate Route 65	*456
			Approximately 600' upstream of State Route 60 at upstream Corporate Limits.	*459
Maps available at the Town Clerk's Office, Clarksville Town Hall, 203 East Montgomery Street, Clarksville, Indiana.				
Send comments to Honorable Kenneth Meloy, President of the Clarksville Town Board, 203 East Montgomery Street, Clarksville, Indiana 47130.				
Indiana	(Uninc.), Morgan County	White River	Downstream county boundary	*568
			Just downstream of 700 West Road	*578
			Just downstream Conrail (west of Martinsville)	*596
			At northern extraterritorial limit of City of Martinsville	*604
			Just upstream confluence of Sycamore Creek	*608
			Just downstream Conrail (North of Martinsville)	*611
			Just upstream Blue Bluff Road	*617
			Just upstream 390 East Road	*623
			Just upstream Old Waverly Road	*642
			Upstream county boundary	*651
		White Lick Creek East Fork	Mouth at White Lick Creek	*661
			Just upstream State Route 144	*666
			Approximately 2,200 feet upstream Conrail	*677
		White Lick Creek	Mouth at White River	*619
			Approximately 2,600 feet downstream 600 North Road	*619
			Just downstream Brooklyn downstream corporate limits	*637
			Just upstream Mill Street	*640
			About 2,000 feet downstream confluence of White Lick Creek East Fork.	*659
			About 1,100 feet upstream Conrail	*665
			Just downstream Greencastle Road	*670
			Upstream county boundary	*680
Maps available for inspection at the Morgan County Courthouse, Martinsville, Indiana.				
Send comments to Honorable Byron Gus Gray, Chairman of the Board of County Commissioners, Morgan County, Morgan County Courthouse, Martinsville, Indiana 46151.				
Louisiana	Unincorporated areas of Ascension Parish.	Mississippi River	Just upstream of Ascension/St. James Parish Line	*33
			Just downstream of Ascension/Iberville Parish Line	*36
		Bayou Francois	Just upstream of State Highway 22	*5
			Just upstream of State Highway 431	*6
			Just upstream of U.S. Highway 61	*7
			Just downstream of State Highway 939	*11
		Bayou Conway	Just downstream of State Highway 22	*6
			Just downstream of State Highway 941	*8
			Just upstream of State Highway 932	*10
		New River	Just upstream of State Highway 935	*6
			Just upstream of State Highway 431	*8
			Just downstream of U.S. Highway 61	*10
			Just downstream of State Highway 73	*16
		North Branch of Grand Goudine	Just downstream of State Highway 74	*13

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Middle Branch of Grand Goudine.	Just downstream of State Highway 74 (near its intersection with State Highway 73).	*13
		Southern Branch of Grand Goudine.	Just upstream of State Highway 73	*14
		Bayou Narcisse	Just downstream of State Highway 938	*8
			Just downstream of State Highway 44	*9
			Just upstream of U.S. Highway 61	*11
		Black Bayou	Just upstream of State Highway 431	*8
			Just downstream of State Highway 934	*9
		Smith Bayou	Just downstream of State Highway 940	*11
	Maps available for inspection at Ascension Parish Courthouse, Donaldsonville, Louisiana 70346.			
	Send comments to Honorable Elman Bleman, President of Ascension Parish Police Jury, P.O. Box 351, Donaldsonville, Louisiana 70346.			
Louisiana	City of Eunice, St. Landry and Acadia Parishes.	Richards Gully	Just downstream of West Maple Avenue (State Highway 91)	*43
			Just downstream of North 12th Street	*46
		North Bayou Mallett	Approximately 200 ft. downstream of College Road	*40
			Just downstream of Southern Pacific Railroad Bridge	*45
		South Ditch	Just upstream of Parish Road	*41
			Just downstream of East Maple Avenue (State Highway 91)	*45
	Maps available for inspection at City Hall, 300 South 2nd Street, Eunice, Louisiana.			
	Send comments to Mayor Wilson Moosa or Ms. Jane S. Duos, City Clerk, City Hall, 300 South 2nd Street, Eunice, Louisiana.			
Massachusetts	Brookfield, Town, Worcester County.	Dunn Brook	Upstream of Quaboag Street	*607
			Upstream of Conrail	*609
			Approximately 1,550' downstream from Slab City Road	*612
			Upstream Corporate Limits	*616
		Quaboag	Downstream Corporate Limits	*605
			Confluence of Quaboag Pond	*606
		Quaboag Pond	Entire shoreline within community	*606
		Quacumquasit Pond	Entire shoreline within community	*606
	Maps available at the Town Clerk's Office, Town Hall, Center Street, Brookfield, Massachusetts.			
	Send comments to the Honorable Donald D. Faugno, Chairman of the Board of Selectmen of Brookfield, Town Hall, Center Street, Brookfield, Massachusetts 01506.			
Massachusetts	Monson, Town, Hampden County.	Quaboag River	0.4 mile downstream of Boston and Albany Railroad Bridge	*315
			Downstream of Central Vermont Railroad Bridge	*321
			0.2 mile upstream of Palmer Road	*326
			0.7 mile upstream of Palmer Road	*333
			0.8 mile downstream of U.S. Route 20 Bridge	*340
			0.2 mile downstream of U.S. Route 20 Bridge	*346
			Upstream Corporate Limits	*353
		Chicopee Brook	Quaboag River confluence	*323
			0.3 mile downstream of Tilden Road	*325
			0.1 mile downstream of C.F. Church Company Dam	*332
			Upstream side of C.F. Church Company Dam	*339
			Upstream of Creamery Brook vicinity Dam	*345
			0.15 mile downstream of Chestnut Street Bridge	*352
			0.60 mile upstream of Chestnut Street Bridge	*358
			0.10 mile downstream of Cushman Street Bridge	*361
			0.15 mile upstream of Cushman Street Bridge	*368
			0.05 mile downstream of Hampden Avenue Bridge	*373
			0.10 mile upstream of Hampden Avenue Bridge	*378
			0.05 mile upstream of Main Street Bridge	*384
			0.20 mile upstream of Main Street Bridge	*392
			0.10 mile downstream of Hampden Road Bridge	*400
			0.04 mile downstream of Hampden Road Bridge	*409
			Downstream side of Ellis Company Dam	*417
	Maps available at the Planning Department, Town Hall, Main Street, Monson, Massachusetts.			
	Send comments to Honorable William H. Daly, Chairman of the Board of Selectmen, Town Hall, Main Street, Monson, Massachusetts 01057.			
Maryland	Somerset County	Chesapeake Bay	Wicomico River from mouth of Monie Bay to confluence of Johnson Creek.	*8
			Monie Bay (Entire Area)	*8
			Tangier Sound between Deal Island and Mouth of the Wicomico River	*8
			Northeastern shoreline of South Marsh Island between Thomas Island Gut and Old Ground Marsh.	*8
			Northwestern shoreline of South Marsh Island between Old Ground Marsh and Pry Cove.	*8
			Manokin River between confluence with Tangier Sound and Top Point	*8
			Kedges Straits between Smith Island and South Marsh Island	*5
			Tangier Sound between confluence with Manokin River and confluence with Cedar Straits.	*5
			Big Annemessex River from confluence with Tangier Sound to River Road.	*5
			Little Annemessex River from Old House Cove to confluence with Daughery Creek.	*5
			Pocomoke Sound between Broad Creek and Fair Island	*5
	Maps available at the Somerset County Courthouse, 21 West Prince William Street, Princess Anne, Maryland.			
	Send comments to Honorable Charles Massey, County Administrator, County Courthouse, 21 West Prince William Street, Princess Anne, Maryland 21853.			

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Minnesota	(C) Sauk Centre, Stearns County	Sauk River	At southeastern corporate limits, just upstream of Burlington Northern Railroad Bridge.	*1,225
			Approximately 30 feet downstream of Sauk Lake Dam	*1,226
		Sauk Lake	At Sauk Lake Shoreline	*1,231
		Overflow North of Sauk Lake Dam.	Just upstream of Pine Street North	*1,226
			Approximately 100 feet upstream of Main Street	*1,230
	Maps available at the Office of the City Clerk, 405 sinclair-Lewis Avenue, Sauk Centre, Minnesota.			
	Send comments to Honorable Robert Weinsmann, Mayor, City of Sauk Centre, 405 Sinclair-Lewis Avenue, Sauk Centre, Minnesota 56378 to the attention of Mr. Fred Borgmann, City Clerk.			
Nebraska	(V) Firth, Lancaster County	Middle Branch Big Nemaha River.	Downstream county boundary	*1,313
			Just upstream State Highway 34 (West of Main Street)	*1,321
			About 1,500 feet upstream confluence of Kraatz Creek	*1,325
	Maps available at the City Clerk's Office, City Hall, Firth, Nebraska.			
	Send comments to Mr. Richard Mulder, Chairman of the Board of Trustees, Village of Firts, City Hall, Firth, Nebraska 68358 to the attention of Mr. Roland Beach, City Clerk.			
North Carolina	Unincorporated areas of Montgomery County.	Clark's Creek	Just upstream of State Road 1110	*233
			Just downstream of State Highway 73	*274
			Just downstream of State Road 1130	*311
		Clark's Creek Tributary	Just downstream of Highway 731	*290
		Uhwarrie River	Just downstream of State Highway 109	*328
		Little River	Just downstream of State Road 1519	*375
			Just downstream of State Highway 24 and 27	*394
		Suck Branch	Just downstream of State Highway 134	*496
			Just downstream of State Road 1320	*529
		Cotton Creek	Just upstream of State Road 1371	*507
	Maps available for inspection at County Commissioners' Office, Montgomery, County Courthouse, Candor, North Carolina 27229.			
	Send comments to the Honorable H. Page McAuley, Chairman of the Board of County Commesioners, P.O. Box 243, Candor, North Carolina, 27229, or Mr. Walter H. Bowers, County Extension Chairman, P.O. Box 467, Troy, North Carolina 27371.			
Pennsylvania	Belle Vernon, Borough, Fayette County.	Monongahela River	Downstream County Boundary	*762
			Upstream Corporate Limits	*763
	Maps available at the Borough Building, 10 Main Street, Belle Vernon, Pennsylvania.			
	Send comments to Honorable Verne Horan, Council President of Belle Vernon, 10 Main Street, Belle Vernon, Pennsylvania 15012.			
Pennsylvania	California, Borough, Washington County.	Monongahela River	Downstream Corporate Limits	*766
			Approximately 1.0 mile upstream of downstream Corporate Limits	*767
			Upstream Corporate Limits	*770
	Maps available at the Borough Building, 333 Third Street, California, Pennsylvania.			
	Send comments to Honorable Virginia Pipik, Council President of California, Box 696, Third Street, California, Pennsylvania 15419.			
Pennsylvania	Centerville, Borough, Washington County.	Monongahela River	Downstream Corporate Limits	*771
			Confluence with Two Mile Run	*773
			Upstream side of Maxwell Lock and Dam	*776
			Upstream Corporate Limits	*777
			Approximately 2,000' upstream Corporate Limits	*778
	Maps available at the Centerville Borough Building.			
	Send comments to Honorable Melvin Ullom, Council President of Centerville, 944 Old National Road, Brownsville, Pennsylvania 15417.			
Pennsylvania	Coal Center, Borough, Washington County.	Monongahela River	Downstream Corporate Limits	*767
			Upstream Corporate Limits	*787
	Maps available at the Borough Building, Water Street, Coal Center, Pennsylvania.			
	Send comments to Honorable Edgar DelBarre, Mayor of Coal Center, Coal Center, Pennsylvania 15423.			
Pennsylvania	East Marlborough, Township, Chester County.	West Branch Red Clay Creek	Upstream side of Township Line Road Bridge	*234
			Downstream side of Mill Road Bridge	*302
			Approximately 2,000' upstream of Mill Road Bridge	*311
			Approximately 5,000' upsteam of Mill Road Bridge	*322
			Approximately 80' downstream of State Route 926 Bridge	*328
		East Branch Red Clay Creek	Downstream Corporate Limits	*325
			Approximately 3,000' upstream of downstream Corporate Limits	*336
			Approximately 100' downstream of Country Club Road Bridge	*342
	Maps available at the residence of the Township Secretary, Ms. Jane Laslo, Beverly Drive, Kennett Square, Pennsylvania.			
	Send comments to Honorable John Hufford, Chairman of the East Marlborough Board of Supervisors, Unionville, Pennsylvania 19375.			
Pennsylvania	Economy, Borough, Beaver County.	Ohio River	Downstream Corporate Limits	*706
			Upstream Corporate Limits	*707
		Big Sewickley Creek	Downstream Corporate Limits	*727
			Downstream Merriment Road	*741
			Downstream Big Sewickley Creek Road	*756
			Upstream side 3rd Private Drive	*784
			Downstream side Big Sewickley Creek Road	*789
			Confluence of Tributary A	*804
			Upstream side Private Drive	*821
			Upstream Big Sewickley Creek Road	*832
			Upstream Corporate Limits	*858

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Tributary A	Upstream side of Cooney Hollow Road	*809
			Approximately 0.31 mile upstream of confluence with Big Sewickley Creek.	*853
		Tributary B	Confluence with Big Sewickley Creek	*741
			Upstream side 3rd Private Drive, approximately 6,150' above confluence with Big Sewickley Creek.	*758
			Upstream side 4th Private Drive, approximately 10,500' above confluence with Big Sewickley Creek.	*777
			Approximately 0.21 mile upstream of 4th Private Drive	*828
			Approximately 0.33 mile upstream of 4th Private Drive	*878
			Approximately 0.45 mile upstream of 4th Private Drive	*922
		North Fork Big Sewickley Creek	Confluence with Big Sewickley Creek	*799
			Upstream side 1st Private Drive	*819
			Downstream side of 2nd Private Drive	*835
			Confluence of Tributary C	*851
			Upstream of Private Drive	*860
			Approximately 0.74 mile upstream of Private Drive	*883
			Approximately 3.29 miles upstream of confluence with Big Sewickley Creek.	*916
		Tributary C	Confluence with North fork Big Sewickley Creek	*851
			Approximately 140' downstream of Hoeing Road	*858
			Approximately 760' upstream of Hoeing Road	*866
		South Branch Legionville Run	Downstream Corporate Limits	*844
			Downstream side Millsdale Ave	*860
			Downstream Private Drive	*883
			Upstream side Hemmerle Road	*952
			Approximately 350' upstream Hemmerle Road	*957
		Tributary D	Confluence with South Branch Legionville Run	*861
			Approximately 600' upstream of confluence with South Branch Legionville Run.	*871
		Maps available for inspection at the Economy Borough Hall, Baden, Pennsylvania.		
		Send comments to Honorable Kenneth Campbell, Mayor of Economy, Conway Wallrose Road, Baden, Pennsylvania 15005.		
Pennsylvania	Fallston, Borough, Beaver County.	Beaver River	Downstream Corporate Limits	*705
			Station Street (Downstream side)	*706
			Upstream Dam at upstream Corporate Limits	*719
		Brady Run	Confluence with Beaver River	*705
			Approximately 60' upstream Fallston Street	*713
			Pittsburgh and Lake Erie Railroad (Downstream)	*721
			Approximately 2,050' upstream of Pittsburgh and Lake Erie Railroad	*733
		Maps available at the residence of Ms. Linda Emert, Fallston Borough Secretary, 196 Beaver Street, New Brighton, Pennsylvania.		
		Send comments to Honorable Robert E. Turner, Mayor of Fallston, 204 Beaver Street, Fallston, New Brighton, Pennsylvania 15066.		
Pennsylvania	Hermitage, Municipality, Mercer County.	Shenango River	Downstream Corporate Limits	*833
			Conrail (upstream of Corporate Limits extended)	*834
		Hogback Run	Sample Road (Upstream)	*1,090
			Approximately 350' upstream of Private Road	*1,090
			Approximately 1,680' downstream Plawkey Lane	*1,102
			Plawkey Lane (Upstream)	*1,116
			Sonoff Lane (Upstream)	*1,124
			South Keel Ridge Road (Upstream)	*1,129
			Virginia Road (Downstream)	*1,132
		Bobby Run	Longview Road (Upstream)	*924
			Approximately 1,500' upstream Longview Road	*948
			Approximately 2,450' upstream Longview Road	*957
			Approximately 3,600' upstream Longview Road	*969
			Approximately 1,600' downstream Rombold Road	*974
			Approximately 450' downstream Rombold Road	*985
		Golden Run	Private Drive approximately 0.5 mile upstream Cassady Road	*1,090
			Robertson Road (Upstream)	*1,105
			Lamor Road (Upstream)	*1,109
			Approximately 2,550' upstream Lamor Road	*1,122
			Scott Drive (extended)	*1,132
		Baker Run	Approximately 400' upstream East State Street	*1,093
			Woodside Drive (Upstream)	*1,102
			Highland Road (Downstream)	*1,113
			Richmond Drive (Upstream)	*1,118
			Cohasset Drive (Upstream)	*1,121
			North Buhl Farm Drive (Downstream)	*1,132
		West Branch Pine Hollow Run	U.S. Route 62 Bypass (Upstream)	*1,072
			Approximately 180' upstream Sunset Boulevard	*1,097
			Easton Road (Upstream)	*1,094
			Morefield Road (Downstream side)	*1,109
		Maps available at the Municipal Building, Hermitage Pennsylvania.		
		Send comments to Honorable Terry Fedorchak, Manager of Hermitage, 800 North Hermitage Road, Hermitage, Pennsylvania 16148.		

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Manheim, Borough, Lancaster County.	Chickies Creek	Power Road	*397
			Downstream of State Route 772	*399
			Downstream of East Steigel Street	*401
			Downstream of East High Street	*401
	Maps available at the Manheim Borough Hall.			
	Send comments to Honorable J. Loverne Hiestand, Mayor of Manheim, 21 East High Street, Manheim, Pennsylvania 17545.			
Pennsylvania	Penn, Township, Lancaster County.	Chickies Creek	Power Road	*397
			Downstream of State Route 772	*399
			Downstream of Doe Run Road	*401
	Maps available at the Penn Township Building.			
	Send comments to Honorable Donald LeFever, Chairman of the Penn Board of Supervisors, R.D. 1, Manheim, Pennsylvania 17545.			
Pennsylvania	Stockdale, Borough, Washington County.	Monongahela River	Downstream Corporate Limits	*765
			Upstream Corporate Limits	*765
	Maps available at the Stockdale Borough Building.			
	Send comments to Honorable James Georgagis, Council President of Stockdale, Stockdale, Pennsylvania 15483.			
Texas	City of Eagle Pass, Maverick County.	Rio Grande River	Just downstream of International Highway	*713
		Main Arroyo	Just upstream of Monroe Street	*722
			Just upstream of Quarry Street	*734
			Just upstream of Medina Street	*740
			Just upstream of Comal Street	*755
		Main Arroyo Tributary 1	Just upstream of Pierce Street	*731
			Just upstream of Travis Street	*739
		Main Arroyo Tributary 2	Just upstream of First Street	*750
			Just upstream of Trinity Street	*758
		Unnamed Tributary	Just downstream of U.S. Highway 277	*769
	Maps available for inspection at City Hall, 100 South Monroe Street, Eagle Pass, Texas 78852.			
	Send comments to Mayor Rodolso Barrera, or Mr. Roberto Gonzales, City Manager, City Hall, 100 S. Monroe Street, Eagle Pass, Texas 78852.			
Texas	City of Nolanville, Bell County	Nolan Creek	Just upstream Main Street	*687
			Just downstream Atchson, Topeka and Santa Fe Railway (approximately 1,000 feet upstream from service road of U.S. Highway 190 West Bound).	*705
		Nolanville Tributary	Just upstream U.S. Highway 190 Eastbound	*680
			Just upstream Atchson, Topkea and Santa Fe Railway	*687
	Maps available for inspection at City Hall, 100 N. Main Street, Nolanville, Texas 76559.			
	Send comments to Mayor C. W. Buchanan or Mr. Meade Mitchell, City Manager, City Hall, 100 North Main Street, Nolanville, Texas 76559.			
Texas	City of Troy, Bell County	Kings Branch	Approximately 150 feet upstream of Belfalls Street	*667
			Just upstream of Old Highway 81	*705
		Kings Branch Tributary 1	Just upstream of Interstate Highway 35 West Service Road	*650
		Kings Branch Tributary 2	Just upstream of Belton Street	*681
		Kings Branch Tributary 3	Just upstream of Bowers Lane	*677
		Cottonwood Creek	Just upstream of FM 1237	*750
	Maps available for inspection at City Hall, Farm Road 935, Troy, Texas 76579.			
	Send comments to Mayor Robert L. McKee, City Hall, P.O. Box 258, Troy, Texas 76579.			
Vermont	Jericho, Town, Chittenden County	Winooski River	Downstream Corporate Limits	*296
			Upstream Corporate Limits	*300
		Lee River	Confluence with Browns River	*437
			Upstream side of Plains Road	*500
			Approximately 3,480' upstream of Plains Road	*510
			Approximately 8,500' upstream of Plains Road	*545
			Approximately 10,865' upstream of Plains Road	*565
			Approximately 835' downstream of Lee River Road	*580
			Approximately 350 feet upstream of Lee River Road	*595
			Downstream side of Browns Trace Road	*604
		Browns River	Downstream Corporate Limits	*430
			Confluence with Lee River	*437
			Upstream side of Small Dam	*517
			Approximately 220' upstream of State Route 15	*534
			Approximately 1,185' upstream of State Route 15	*543
			Approximately 2,140' upstream of State Route 15	*561
			Approximately 55' downstream of Ledge Dam Downstream	*600

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream side of Ledge Dam Downstream	*608
			Upstream side of Ledge Dam Upstream	*615
			Downstream side of Cilley Hill Road	*618
			Upstream side of Dam	*628
			Downstream side of Raceway Street	*644
			Confluence of The Creek	*648
			Upstream side of State Route 15	*668
			Upstream side of Private Drive	*671
			Approximately 220' upstream of Private Drive	*674
			Upstream Corporate Limits	*685
		The Creek	Confluence with Browns River	*648
			Approximately 75' downstream of Raceway Street	*660
			Approximately 30' upstream of Raceway Street	*669
			Approximately 50' downstream of Meadow Lane	*677
			Upstream side of Palmer Lane	*687
			Upstream Corporate Limits	*692
	Maps available at the Town Hall, Jericho, Vermont.			
	Send comments to Honorable Donald B. Fay, Chairman of the Board of Selectment, Town Hall, Jericho, Vermont 05465.			
Washington	Kalama (City), Cowlitz County	Columbia River	Approximately 50 feet east of the intersection of Northwest Oak Street and Burlington Northern Railroad.	*19
			Approximately 1,100 feet west of the intersection of Old Pacific Highway and Cloverdale Road.	*20
	Maps available for inspection at City Hall, 385 N. 1st., Kalama, Washington.			
	Send comments to Honorable Dale Butts, P.O. Box 1007, Kalama, Washington 98625.			
Wisconsin	(C) Mondovi, Buffalo County	Buffalo River	About 1.5 miles downstream from Eau Claire Street	*777
			About 0.5 mile downstream from Eau Claire Street	*782
			Just upstream from Eau Claire Street	*784
			About 0.2 mile upstream from Eau Claire Street	*786
			About 1.6 miles upstream from Eau Claire Street	*791
		Peeso Creek	Mouth at Buffalo River	*784
			Just downstream from Mill Street Dam	*792
			Just upstream from Mill Street Dam	*814
			Jus upstream of Washington Street (downstream crossing)	*817
			Just downstream of Washington Street (upstream crossing)	*825
		Brownlee Creek	Mouth at Mirror Lake	*814
			Upstream corporate limits	*817
	Maps available for inspection at the Office of the City Clerk, City Hall, 156 South Franklin Street, Mondovi, Wisconsin.			
	Send comments to Honorable Francis Diller, Mayor, City of Mondovi, City Hall, 156 South Franklin Street, Mondovi, Wisconsin 54755.			

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: August 18, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-26626 Filed 9-3-80; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 80-176]

Regulatory Policies Concerning Resale and Shared Use of Common Carrier International Communications Services; Extension of Time Granted in Part

AGENCY: Federal Communications Commission.

ACTION: Proposed rule: Extension of time.

SUMMARY: In response to a motion by Western Union International, Inc., the Common Carrier Bureau granted a seventeen (17) day extension of time for submission of reply comments in CC Docket 80–176, Regulatory Policies concerning Resale and Shared Use of Common Carrier International Communications Services (45 FR 33657, May 20, 1980).

DATE: Reply comments must be received on or before September 29, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Helen Golding, Common Carrier Bureau, (202) 632–6917.

In the matter of Regulatory Policies Concerning Resale and Shared Use of Common Carrier International Communications Services, CC Docket No. 80–176. See also 45 FR 51251, August 1, 1980.

Memorandum Opinion and Order

Adopted: August 22, 1980.

Released: August 27, 1980.

1. Before the Bureau is a motion by Western Union International, Inc. (WUI), asking either that the deadline for filing reply comments in the above-captioned proceeding be extended from September 12, 1980 to October 14, 1980, or that we provide for a third round of comments to be due on that date. WUI claims that it needs the additional time in order to address certain

developments which occurred shortly before the deadline for initial comments.

2. Specifically, petitioner asserts that it needs more time to comment on recent correspondence concerning the impact of International Consultative Telegraph and Telephone Committee (CCITT) Recommendations, and the attitudes of foreign administrations generally, on our decision to consider ending resale and shared use restrictions,[1] It also claims that it needs to see the text of the Commission's *Memorandum Opinion and Order* adopted August 1, 1980 in CC Docket No. 79-252,[2] and a second action in that proceeding expected to be taken in September, before finalizing its comments.

3. We will allow an additional 17 days, until September 29, 1980, for the filing of reply comments. We do so because we consider it important that all interested parties be given the oportunity to address the impact of CCITT Study Group III Recommendation D. 1, and any related provisions, on our proposals in this proceeding. In particular, we are interested to learn what parties perceive as the role of CCITT recommendations, and what weight they should properly be given in our overall determination of the best interests of U.S. consumers.

4. On the other hand, we cannot justify allowing this proceeding to be delayed further by tying the submission of comments here to the completion of Docket No. 79-252. As we see it, paragraphs 17-21 of our *Notice* in this proceeding, 77 FCC2d 831 (1980), taken together with the information contained in the Commission's detailed *Notice* in the *Competitive Carrier Rulemaking*, 77 FCC2d 308 (1979), provide ample guidance on the areas where the Commission seeks public comment.

5. Accordingly, it is ordered, pursuant to delegated authority under § 0.291 of the Commission's rules, 47 CFR 0.291, that Western Union International Inc.'s motion for an extension of time IS GRANTED to the extent indicated and is otherwise DENIED.

6. It is further ordered that a copy of this order be published in the Federal Register.

[1] In addition, WUI asks for summaries of various recent meetings between representatives of the Commission and telecommunications entities from Europe and Canada, in which it alleges the subject of resale and sharing of international telecommunications was discussed. We will deny the request for summaries, since it is simply not relevant to the question of whether the time period for filing reply comments should be extended.

[2] *Policy and Rules concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor.*

Federal Communications Commission.
Thomas J. Casey,
Acting Chief, Common Carrier Bureau.

[FR Doc. 80-27082 Filed 9-3-80; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-519; RM-3642]

TV Broadcast Station in Fort Walton Beach, Florida; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes to delete UHF television Channel 35 from Fort Walton Beach, Florida, and assign in its place Channel 50, in response to a petition filed by Fort Walton Beach Broadcasting Corporation. The proposal would permit greater site flexibility for construction of a new TV station.

DATES: Comments must be filed on or before October 17, 1980, and reply comments on or before November 6, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations. (Fort Walton Beach, Florida), BC Docket No. 80-519, RM-3642.

Adopted: August 15, 1980.
Released: August 26, 1980.

1. *Petitioner, Proposal, Comments:*—(a) *Notice of Proposed Rule Making* is given concerning the amendment of the Television Table of Assignments (Section 73.606(b) of the Commission's Rules) as it relates to Fort Walton Beach, Florida.

(b) A petition for rule making [1] was filed by Fort Walton Beach Broadcasting Corporation ("petitioner"), proposing to delete UHF Channel 35 at Fort Walton Beach, Florida, and assign in its place Channel 50. Channel 35 is unoccupied and unapplied for.

(c) Petitioner states that it will apply for Channel 50, if the channel change is approved.

2. *Community Data:*—(a) *Location.* Fort Walton Beach, in Okaloosa County, is located in northwest Florida, on the Gulf of Mexico, approximately 60 kilometers (37 miles) east of Pensacola, Florida.

(b) *Population.* Fort Walton Beach—19,994 [2]; Okaloosa County—88,187.

3. In BC Docket 78-306, it was proposed to assign UHF television Channel 35 to Fort Walton Beach, Florida. A site selected in a fairly large area, generally west and north of Fort Walton Beach could meet all distance separation requirements. On the basis of information submitted in that proceeding, it was determined that it would serve the public interest to assign Channel 35 to Fort Walton Beach.

4. Petitioner now indicates that extremely heavy air traffic in the area (due primarily to the proximity of Eglin Air Force Base) makes it infeasible to locate a television tower in the required area for Channel 35 operation. For this reason, petitioner requests that Channel 50 be substituted for Channel 35 at Fort Walton Beach.

5. The Commission believes that consideration of the proposed channel substitution would be in the public interest. It could provide Fort Walton Beach an opportunity to acquire its first local television station. There would be a much greater site selection flexibility for a Channel 50 assignment than there currently is for the Channel 35 assignment. Channel 50 may be assigned in compliance with all distance separation requirements.

6. Accordingly, we shall propose to amend the Television Table of Assignments, § 73.606(b) of the Commission's rules, as it pertains to Fort Walton Beach, Florida, as follows:

City	Channel No.	
	Present	Proposed
Fort Walton Beach, Florida	35	50

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before October 17, 1980, and reply comments on or before November 6, 1980.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

[1] Public Notice of the petition was given on April 25, 1980, Report No. 1226.

[2] Population figures are taken from the 1970 U.S. Census.

However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission,

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

[BC Docket No. 80-519 RM-3642]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who file comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW, Washington, D.C.

[FR Doc. 80-27081 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-521; RM-3585]

FM Broadcast Stations In Tucson and Nogales, Arizona; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This action proposes to assign Channel 219A to Tucson, Arizona, as its second noncommercial educational FM station in response to a petition filed by The Foundation for Creative Broadcasting, Inc. A change in the assignment of Channel 217 to Channel 217A at Nogales, Arizona, will be necessary.

DATES: Comments must be received on or before October 17, 1980, and reply comments on or before November 6, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.504(b), *Table of Assignments,* FM Broadcast Stations. (Tucson and Nogales, Arizona), BC Docket No. 80-521, RM-3585.

Adopted: August 18, 1980.

Released: August 26, 1980.

1. The Commission has before it a petition for rule making [1] filed by the Foundation for Creative Broadcasting, Inc. ("petitioner") proposing the assignment of noncommercial educational Channel 219A to Tucsson, Arizona, and to change the assignment of unused Channel 217 in Nogales, Arizona, to 217A.[2] [3] No responses to the petition have been filed.

2. Tucson (pop. 290,661),[4] the second largest city in Arizona, is located in Pima County (pop. 351,667). Tucson is located in northeastern Arizona, about 100 kilometers (60 miles) from the Mexican border. Noncommercial Station KUAT-FM (Channel 213), licensed to the University of Arizona Board of Regents, presently serves Tucson.

3. Petitioner states that the public interest will be served by providing a choice of noncommercial educational programming to meet the needs of the diverse population of Tucson.

4. Petitioner states that KMCR, Channel 218 in Phoenix, Arizona, and Channel 217 in Nogales, Arizona, severely restrict a site for Channel 219A in Tucson, Arizona. He asserts that in order to satisfy the spacing for KMCR and the Nogales assignment, a very undesirable location northeast of the center of Tucson is dictated. It is said to be undesirable because of field intensity requirements, accessibility and zoning problems. The proposed change of the Nogales assignment to Channel 217A would permit the siting of Channel 219A with a more acceptable restriction of 7.5 kilometers (4.6 miles) southeast.

5. Since Tucson and Nogales are located within 320 kilometers (199 miles) of the U.S.-Mexico border, the proposed assignment requires the concurrence of the Mexican Government.

6. Accordingly, it is proposed to amend the FM Table of Assignments, § 73.504(b) of the Commission's rules, as follows (for the listed cities):

City	Channel No.	
	Present	Proposed
Nogales, Arizona	217	217A
Tucson, Arizona	213	213, 219A

[1] Public Notice of the petition was given on February 27, 1980, Report No. 1218.

[2] It should be noted that generally noncommercial educational FM channels are not assigned to communities in a Table of Assignments. Rather, Channels 201 through 220 are reserved for use by noncommercial educational stations and may be applied for on a demand basis. See Note 1(a)(2) to § 1.573 of the Commission's rules. However, within 320 kilometers (199 miles) of the Mexico-United States border, only noncommercial FM channels assigned to communities in the Noncommercial Educational Table of Assignments may be applied for. Moreover, an application for one of these assigned channels will not be granted if it fails to meet minimum distance separations to both Mexican and United States FM assignments or authorizations. See Notes to §§ 1.573, 73.297 and 73.504(g) of the Commission's rules.

[3] The Nogales change is necessary to comply with the mileage separation requirements.

[4] Population figures are taken from the 1970 U.S. Census.

7. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before October 17, 1980, and reply comments on or before November 6, 1980.

9. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until it is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rulemaking other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-521 RM-3585]

1. Purusant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.504(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 80-27066 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-516; RM-3592]

FM Broadcast Station in Hampton, Ark.; Proposed Changes in Table of Assignments

AGENCY: The Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This action proposes to assign FM Channel 296A to Hampton, Arkansas as the first assignment in response to a petition filed by Travis Carroll.

DATE: Comments must be filed on or before October 17, 1980, and reply comments on or before November 6, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau Area 202: 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Hampton, Arkansas), BC Docket No. 80-516, RM-3592.

Adopted: August 15, 1980.

Released: August 25, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by Travis Carroll ("petitioner"), proposing the assignment of FM Channel 296A to Hampton, Arkansas.

(b) Channel 296A can be assigned to Hampton, Arkansas, provided the site is located about 10 kilometers (6.1 miles) southwest of Hampton in order to comply with the 104 kilometer (65 mile) separation to Channel 296A in Dumas, Arkansas.

(c) Petitioner states that he will promptly apply for the channel, if assigned.

2. *Demographic Data.*—(a) *Location.* Hampton, in Calhoun County, is located in the south central portion of the State.

(b) *Population.* Hampton—1,252 [2]; Calhoun County 5,573.

(c) *Local Aural Broadcast Service.* None.

3. *Economic Considerations.* No demographic or industrial information regarding employment in Hampton is provided by petitioner. However, petitioner states that Hampton is incorporated as a second class town and is governed by a Mayor and City Council.

4. In view of the fact that the proposed FM channel assignment would provide for a first local aural broadcast service to Hampton, Arkansas, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's rules with regard to Hampton, Arkansas, as follows:

City	Channel No.	
	Present	Proposed
Hampton, Arkansas		296A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before October 17, 1980,

[1] Public Notice of the petition was given on February 27, 1980, Report No. 1218.

[2] Population figures are taken from the 1970 U.S. Census.

and reply comments on or before November 6, 1980.

7. For further information concerning this proceeding, contact Mark Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignment. As *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

[BC Docket No. 80-516 RM-3592]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-27087 Filed 9-03-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-515; RM-3573]

FM Broadcast Station in Oildale, Calif.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to assign Channel 237A to Oildale, California, as its first FM assignment in response to a petition filed by KMAP, Inc.

DATES: Comments must be filed on or before October 17, 1980, and reply comments on or before November 6, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Oildale, California), BC Docket No. 80-515, RM-3573.

Adopted: August 15, 1980.

Released: August 27, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rulemaking [1] was filed by KMAP, Inc. ("petitioner"), proposing the assignment of FM Channel 237A to Oildale, California, as the community's first FM channel.

(b) Channel 237A can be assigned to Oildale in complete conformity with all mileage separation requirements.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Demographic Data*—(a) *Location.* Oildale is located in the heart of Kern County roughly 10 kilometers (6 miles) north and west of Bakersfield.

(b) *Population.* Oildale—20,709 [2]; Kern County—341,900.

(c) *Local Aural Broadcast Service.* None.

3. *Economic Considerations.* Petitioner states that Kern County, and Oildale in particular, show trends of population increases. The petitioner asserts that Oildale is the home to many types of industry and commerce, including the production of oil and petroleum products.

4. In view of the fact that the proposed FM channel assignment would provide for a first local aural broadcast service to Oildale, California, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to Oildale, California, as follows:

City	Channel No.	
	Present	Proposed
Oildale, Calif.		237A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before October 17, 1980, and reply comments on or before November 6, 1980.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a

[1] Public Notice of the petition was given on February 20, 1980, Report No. 1215.

[2] Population figures are taken from the 1970 U.S. Census.

message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-515 RM-3573]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-27088 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR—PART 73

[BC Docket No. 80-522; RM-3582]

FM Broadcast Station in South Lake Tahoe,Calif.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making and order to show cause.

SUMMARY: This action proposes to consider assigning two Class B channels to South Lake Tahoe and eliminate both current Class A channels, modifying the Class A licenses to specify the Class B channels.

DATES: Comments must be filed on or before October 17, 1980 and reply comments on or before November 6, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, Area (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b) *Table of Assignments* FM Broadcast Stations. (South Lake Tahoe, CA.), BC Docket No. 80-522, RM-3582.

Adopted: August 18, 1980.

Released: September 3, 1980.

1. The Commission has before it a petition for rule making[1] filed on September 17, 1979, by Emerald Broadcasting Co.("petitioner"), licensee of Stations KTHO (AM) and KTHO (FM) South Lake Tahoe, California. It proposes the assignment of Channel 275, the deletion of Channel 276A and modification of its license to specify Channel 275.

2. South Lake Tahoe (population 12,921),[2] is located in El Dorado County (population 43,833), approximately 248 kilometers (155 miles) northeast of San Francisco, California. It is served by full-time AM Stations KOWL, 1490 kHz, and KTHO, 590 kHz, and by FM Stations KRLT, Channel 261A and KTHO-FM Channel 276A.

3. Petitioner states that there are two major communities of interest in the Lake Tahoe basin, commonly referred to as the "South Shore" and the "North Shore." A third community, Incline Village, is said to exist on the Nevada side of the California/Nevada state line which bisects Lake Tahoe. The South Shore contains the incorporated city of South Lake Tahoe to which KTHO-FM is licensed. Petitioner states that a significant population growth has occurred since the 1970 Census, and reports that local government agencies now estimate the city of South Lake Tahoe population to be approximately 21,000. Using 1970 Census figures, the North Shore had a population of 6,239, and Incline Village an estimated population of 333. Petitioner states that comparable growth likely has occurred in these areas.

4. *Preclusion Studies.* The assignment of Channel 275 to South Lake Tahoe will cause preclusion on Channels 272A, 274, and 275 in all or parts of the following twenty-three *counties:*

California. Mono, Alpine, Amadore, El Dorado, Calaveras, Butte, Lassen, Plumas, Sierra, Modoc, Shasta, and Placer.

Nevada. Douglas, Lyon, Washoe, Pershing, Churchill, Storey, Nye, Mineral, Lander, Humboldt, and Esmeralda.

5. Roanoke Rapids Study. Petitioner submitted data which indicate that the assignment would provide a first FM service to 1177 sq. kilometers (460 sq. mi.) for 6,079 persons and a second FM service to 632 sq. kilometers (247 sq. mi.) for 416 persons.[3] An Anamosa/Iowa

[1] Public Notice was given on February 27, 1980. Report No. 1218.

[2] Population data are taken from 1970 U.S. Census, unless otherwise indicated.

[3] This study did not take into account a proposed change for Station KOZZ in Reno, Nevada, and Channel 243B, recent assignments of Tahoe City, California, and Channel 228A, Incline Village, Nevada.

City study, 46 F.C.C. 2d 520 (1974), taking into account AM services, was not submitted.

6. Intermixture. Class A FM Channel 261, licensed to Entertainment Enterprises, is the only other channel presently allocated to South Lake Tahoe. The proposed switch of the petitioner to move KTHO from Channel 276 to Class B Channel 275 would create an intermixture of classes in the same community. Such intermixture would run counter to our established policy,[4] and petitioner has not brought forward facts or arguments to demonstrate that the established policy should not be adhered to in this case. A Commission staff search indicates that another Class B channel (Channel 230) could be assigned to the community with a site restriction of approximately 30 kilometers (19 miles).

7. We wish to consider the possibility of assigning two Class B channels to South Lake Tahoe in view of the first and second FM potential referred to in paragraph 5, and because we are also concerned with the intermixture which would result from assigning just one Class B channel, while leaving the other station operating on a Class A channel. Therefore, in accordance with past decisions [5] we will propose two Class B assignments, and the concurrent elimination of both current Class A assignments in South Lake Tahoe. This can only be possible by modifying the Class A station to one of the available Class B channels. We would under these circumstances need an expression of interest in the proposed channel and power change, and a commitment from the licensee, Entertainment Enterprises, to make that change if this proposal is adopted. We desire comments from Entertainment Enterprises on the possibility of modifying its license in this way since we recognize that it may not have the resources or interest to upgrade its facilities to Class B status and in view of the fact that a change in that station's present site would be necessary. Entertainment Enterprises would be entitled to reimbursement for the change in frequencies only, in accordance with established policy.[6]

[4] See Fayetteville, North Carolina, 47 F.C.C. 2d 1067, 1071 (1974); Mitchell, South Dakota, Report and Order, F.C.C. 76-1002, 41 FR 49101.

[5] See Mitchell, South Dakota, Report and Order, 62 F.C.C. 2d 70 (1976); Coeur D'Alene, Idaho, Notice of Proposed Rule Making and Orders to Show Cause, BC Docket No. 80-50, 45 FR 12451, published February 26, 1980.

[6] See especially Mitchell, South Dakota, Report and Order, supra, where partial reimbursement by the benefitting party was ordered to defray costs of converting frequency. See also Ogallala, Nebraska (Notice) Docket 80-429, 45 FR 52845, published August 8, 1980.

Should another interest be expressed in either of the Class B channels, the modifications could not be made.

8. Accordingly, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to South Lake Tahoe, California, as follows:

City	Channel No.	
	Present	Proposed
South Lake Tahoe, Calif.	261A, 276A	230, 275

9. It is ordered, that pursuant to § 316(a) of the Communications Act of 1934, as amended, the licensee of Station KRLT(FM), South Lake Tahoe, California, Entertainment Enterprises, SHALL SHOW CAUSE why its license should not be modifed to specify operation on Channel 230 in lieu of Channel 261A, if the Commission determines that the public interest would best be served by adopting the proposed assignments.

10. Pursuant to § 1.87 of the Commission's rules and regulations the licensee of Station KRLT (FM), South Lake Tahoe, California, may, not later than October 17, 1980, request that a hearing be held on the proposed modification. Pursuant to § 1.87(f), if the right to request a hearing is waived, Station KRLT (FM) may, not later than October 17, 1980, file a written statement showing with particularity why its license should not me modified as proposed in the "Order to Show Cause." In this case, the Commission may call on Station KRLT (FM) to furnish additional information, designate the matter for hearing, or issue, without further proceeding, an Order modifying the license as provided in the Order to Show Cause. If the right to request a hearing is waived and no written statement is filed by the date stated above, Station KRLT (FM) will be deemed to consent to modification as proposed in the Order to Show Cause and a final Order will be issued by the Commission, if the channel changes mentioned above are found to be in the public interest.

11. Authority. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference therein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

12. Comments and Replies. Interested persons and parties may file comments on or before October 21, 1980, and reply comments on or before November 10, 1980.

13. It is further ordered, That the Secretary of the Commission shall send a copy of this Order by certified mail, return receipt requested, to: Entertainment Enterprises, Box 689, South Lake Tahoe, California 95705.

14. For further information concerning this proceeding, contact Mark Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-522 RM-3582]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. it should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public

Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set our in § 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Streets, NW., Washington, D.C.

[FR Doc. 80-27089 Filed 9-3-80; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-526; RM-3599]

FM Broadcast Station in Rifle, Colorado; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to assign FM Channel 287 to Rifle, Colorado, as its first FM channel in response to a petition from Garfield County Broadcasters. A more accurate showing of first and second aural services is requested.

DATE: Comments must be filed on or before October 21, 1980, and reply comments on or before November 10, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Rifle, Colorado), BC Docket No. 80-526, RM-3599.

Adopted: August 19, 1980.

Released: September 2, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by Garfield County Broadcasters ("petitioner"), proposing the assignment of Class C FM Channel 287 to Rifle, Colorado.

(b) Channel 287 can be assigned to Rifle in conformity with the minimum distance separation requirements.

(c) Petitioner states that he will promptly apply for the channel, if assigned.

2. *Community Data*—(a) *Location.* Rifle is located in Garfield County near the Utah State border, approximately 241 kilometers (150 miles) west of Denver, Colorado.

(b) *Population.* Rifle—2,150; Garfield County—14,821.[2]

(c) *Local Aural Broadcast Service.* Rifle is served by AM Station KWSR (daytime, Class II).

3. *Economic Considerations.* Petitioner states that Rifle, Colorado, and Garfield County are located in the middle of the largest known oil shale deposits in the world. Petitioner further states that according to Dr. Armand Hammer, Chairman of the Board of Occidental Petroleum, Colorado, Wyoming and Utah contain an estimated 1.9 trillion barrels of oil or "an amount equal to more than two and one half times the total known oil reserves of the world." Petitioner notes that oil shale is seen by some experts as a means of satisfying half of President Carter's targeted domestic oil need by 1990. With the development of the oil shale industry in that area likely, petitioner contends that a three shift, twenty-four hour work force would emerge, requiring a larger time period for broadcasting local issues and community information beyond the current daylight hour AM broadcast.

4. *Additional Considerations.* Petitioner attempted to demonstrate that unserved and underserved areas would be provided service by the proposed station. However, the information provided did not conform to guidelines set forth in *Roanoke Rapids/Anamosa* proceedings.[3] Thus, we could not verify the data given.

5. *Preclusion Study.* Preclusion would occur on Channels 285A, 286, 287, 288A, and 290 as a result of the proposed assignment. Communities in the following *counties* may be foreclosed from a possible assignment on one or more of the affected channels by the assignment to Rifle.

Colorado—Moffat, Routt, Jackson, Grand, Rio Blanco, Garfield, Eagle, Lake, Pitkin, Mesa, Delta, Gunnison, Chaffee, Montrose, Ouray, San Miguel, Dolores, San Juan, Hinsdale, Mineral, Saguache, Rio Grande, Alamosa, Conejos, Archuleta, La Plata, and Montezuma.

Utah—Daggett, Uintah, Grand, and San Juan.

Wyoming—Unita, Sweetwater, Carbon, and Albany.

Petitioner states that alternate channels are available but fails to list them. The Commission, therefore, requests that the petitioner provide it with a list of alternate channels that would be available to the precluded areas.

6. Although the usual practice is to assign a Class A channel to a community the size of Rifle, we have assigned the higher powered Class C channel where it is shown that a significant amount of first or second FM service would be provided or when a Class C channel represents the best means of serving a sparsely populated area. We shall give petitioner the opportunity to demonstrate such service in accordance with the guidelines set forth in the *Roanoke Rapids* proceedings.[4]

7. Comments are invited on the following proposal to amend the FM Table of Assignments with regard to the community of Rifle, Colorado.

City	Channel No.	
	Present	Proposed
Rifle, Colo		287

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

[1] Public Notice was given on February 27, 1980, Report No. 1218.

[2] Population figures are taken from the 1970 U.S. Census.

[3] *Roanoke Rapids, North Carolina*, 9 F.C.C. 2d 672 (1967); *Anamosa, Iowa*, 46 F.C.C. 2d 520 (1974).

[4] See para. 4 and fn. 3, *supra*. Reasonable or existing facilities where larger for all FM assignments including unoccupied assignments should be considered in this *Roanoke Rapids* study. The Commission notes the petitioner should include the Colorado assignments of Station KMTS, Glenwood Springs; Station KQIX-FM, Grand Junction; vacant but applied for Channel 273, Craig (showing impact of both applications); and any other FM assignments which may impact the 1 mV/m service area of the Rifle proposal. Since no nighttime AM service would affect this service area, an *Anamosa* showing is not required.

9. Interested parties may file comments on or before October 21, 1980, and reply comments on or before November 10, 1980.

10. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-526 RM-3599]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rulemaking* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rulemaking* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-27090 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-518; RM-3445]

FM Broadcast Station in Smith Center, Kans.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of FM Channel 231 to Smith Center, Kansas, as that community's first FM assignment, as requested in a petition for rule making filed by Ernest McRae and Jerry T. Venable.

DATES: Comments must be filed on or before October 17, 1980, and reply comments on or before November 6, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Smith Center, Kansas). BC Docket No. 80-518, RM-3545.

Adopted: August 15, 1980.
Released: August 29, 1980.

1. The Commission herein considers a petition for rule making [1] looking toward the assignment of Channel 268, as a first FM assignment to Smith Center, Kansas (RM-3545), filed by Ernest McRae and Jerry T. Venable ("petitioners"). No responses to the petition have been received. To avoid a conflict with another pending proposal to assign Channel 268 to Hastings, Nebraska (RM-3589), we have substituted Channel 231 for consideration herein.

2. Smith Center (pop. 2,389) [2], seat of Smith County (pop. 6,757), is located in the north central portion of the state approximately 272 kilometers (170 miles) northwest of Topeka, Kansas. It has no local aural service.

3. Petitioner asserts that the main industry in the community is agriculture and agri-business. Petitioners also state that Smith Center is in a pattern of growth. The 1978 estimated population for Smith County was 7,191 as compared to the 1970 Census figure of 6,757. Petitioners have submitted demographic data to demonstrate the need for a first FM assignment to Smith Center.

4. A preclusion study was done for Channel 231 in Smith Center, Kansas, assuming the transmitter was located approximately 11 kilometers (7 miles) south-southwest of the community due to spacing requirements. The assignment of Channel 231 to Smith Center will cause preclusion in all or parts of the following thirty-eight counties; *Kansas:* Jewel, Ellis, Trego, Graham, Rooks, Norton, Phillips, Russell, Rawlins, Cheyenne, Decatur, Osborne, Stafford, Barton and Mitchell; *Nebraska:* Red Willow, Hitchcock, Hayes, Frontier, Gosper, Phelps, Lincoln, Hall, Webster,

[1] Public Notice of the petition was given on February 1, 1980, Report No. 1211.

[2] Population figures are taken from the 1970 U.S. Census.

Kearney, Clay, Hamilton, Franklin, Dawson, Custer, Blaine, Loup, Furnas, Harlan, Buffalo, Nuckools, Adams and Fillmore.

5. Petitioners state that the assignment of a class C channel to Smith Center will provide a first FM service to 6,571 square kilometers (2,567 square miles) for 27,464 persons and a second FM service to 4,439 square kilometers (1,734 square miles) for 12,129 persons. Further the assignment will provide a first aural service to 6,300 square kilometers (2,461 square miles) for 25,210 persons and a second aural service to 4,710 square kilometers (1,840 square miles) for 12,205 persons. Petitioners, however, only took into account one of the two FM stations in Kearney, Nebraska, and did not consider the FM station in Superior, Nebraska. The service figures should be reduced to reflect the stations that were omitted.

6. Accordingly, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the rules, with regard to the community listed below, as follows:

City	Channel No.	
	Present	Proposed
Smith Center, Kans.		231

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before October 17, 1980, and reply comments on or before November 6, 1980.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-9660. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-518 RM-3545]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-27091 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-528; RM-3571]

FM Broadcast Station in Owingsville, Ky., Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: This action proposes to assign Channel 296A to Owingsville, Kentucky, as that community's first FM assignment, in response to a petition filed by Bath Radio Works.

DATES: Comments must be filed on or before October 21, 1980, and reply comments on or before November 10, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Owingsville, Kentucky), BC Docket No. 80-528, RM-3571.

Adopted: August 19, 1980.
Released: August 27, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by Bath Radio Works ("petitioner"), proposing the assignment of FM Channel 296A to Owingsville, Kentucky, as that community's first FM assignment.

(b) Channel 296A could be assigned to Owingsville in compliance with the minimum distance separation requirements.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Demographic Data.*—(a) *Location.* Owingsville, seat of Bath County, is located in northern Kentucky, approximately 200 kilometers (125 miles) east of Louisville, Kentucky.

(b) *Population.* Owingsville—1,381; [2] Bath County—9,235.

(c) *Local Aural Broadcast Service.* None.

[1] Public Notice of the petition was given on February 20, 1980, Report No. 1215.

[2] Population figures are taken from the 1970 U.S. Census.

3. *Economic Considerations.* Petitioner states that economic research has concluded that Owingsville can support a radio station operation as a profitable business. No other information regarding Owingsville was provided.

4. In view of the fact that the proposed FM channel asssignment would provide for a first local aural broadcast service to Owingsville, Kentucky, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to Owingsville, Kentucky, as follows:

City	Channel No.	
	Present	Proposed
Owingsville, Ky		296A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before October 21, 1980, and reply comments on or before November 10, 1980.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commssion or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,
Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-528 RM-3571]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulatins, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-27092 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-517; RM-3572]

FM Broadcast Station in North Mankato, Minn,; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This action proposes to assign Channel 244A to North Mankato, Minnesota, as its first FM channel assignment in response to a petition filed by Minnesota Valley Broadcasting Company.

DATE: Comments must be filed on or before October 17, 1980, and reply comments on or before November 6, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), *Table of Assignments, FM Broadcast Stations. (North Mankato, Minnesota), BC Docket No. 80-517. RM-3572.*

Adopted: August 15, 1980.
Released: August 29, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by Minnesota Valley Broadcasting Company ("petitioner"), proposing the assignment of FM Channel 244A to North Mankato, Minnesota, as that community's first FM assignment.

(b) Channel 244A can be allocated to North Mankato in complete conformity with all mileage separation requirements, provided the transmitter site is located 9 kilometers (5.65 miles) northwest of the center of the city.

(c) Petitioner states that it will apply for the channel, if assigned.

2. *Demographic Data.—(a) Location.* North Mankato, in Nicollet County, is located in south central Minnesota, approximately 136 kilometers (85 miles) southwest of Minneapolis/St. Paul. It is situated across the Minnesota River, and in a different county, from Mankato, Minnesota.

(b) *Population.* North Mankato—7,347; Nicollet County—24,795. [2]

(c) *Local Aural Broadcast Service.* None.

3. *Economic Considerations.* Petitioner states that there is a wide

[1] Public Notice of the petition was given on February 20, 1980, Report No. 1215.

[2] Population figures are taken from the 1970 U.S. Census.

variety of principal economic industries in North Mankato, including a specialized printer, electronic component manufacturer, bottler and distributor of soft drinks and a newly established industrial park (300 acres in size) for new industries. Petitioner has submitted demographic data which demonstrates the need for a first FM channel at North Mankato.

4. In view of the apparent need for a first FM channel at North Mankato, the Commission believes it would be in the public interest to propose the assignment of Channel 244A to that community.

5. Accordingly, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to the listed city, as follows:

City	Channel No.	
	Present	Proposed
North Mankato, Minn.		244A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before October 17, 1980, and reply comments on or before November 6, 1980.

8. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-517 RM-3572]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-27093 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-513; RM-3580]

FM Broadcast Station in Olivia, Minn.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: This action proposed to assign Channel 269A to Olivia, Minnesota, as its first FM assignment in response to a petition filed by Olivia Broadcasting Co.

DATES: Comments must be received on or before October 17, 1980, and reply comments on or before November 6, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments, FM Broadcast Stations. (Olivia, Minnesota), BC Docket No. 80-513, RM-3580.*

Adopted: August 15, 1980.
Released: August 28, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making[1] was filed by Olivia Braodcasting Company ("petitioner"), proposing the assignment of FM Channel 269A to Olivia, Minnesota, as that community's first FM radio station.

(b) Channel 269A could be assigned to Olivia in compliance with the minimum distance separation requirements.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Demographic Data:*—(a) *Location.* Olivia, the seat of Renville County, is located approximately 140 kilometers (85 miles) west of Minneapolis.

(b) *Population.* Olivia—2,553; Renville County—21,139.[2]

(c) *Local Aural Broadcast Service.* None.

3. *Economic Considerations.* Petitioner states that Olivia has its own stores, professional offices, banks, savings and loan associations, churches, clubs, and service organizations. Major employers are canning and seed companies. Petitioner has submitted sufficient demographic data to demonstrate the need for a first FM assignment to Olivia.

4. In view of the fact that the proposed FM channel assignment would provide

[1] Public Notice of the petition was given on February 20, 1980, Report No. 1215.

[2] Population figures are taken form the 1970 U.S. Census.

for a first local aural broadcast service to Olivia, the Commission finds it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to Olivia, Minnesota, as follows:

City	Channel No.	
	Present	Proposed
Olivia, Minn.		269A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before October 17, 1980, and reply comments on or before November 6, 1980.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

[BC Docket No. 80-513 RM-3580]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-27094 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-527; RM-3509]

FM Broadcast Stations in Columbia and Monroe City, Mo.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This action proposes to substitute Channel 292A in Monroe City, Missouri, for presently unused Channel 269A now assigned there, and the reassignment of Channel 269A to Columbia, Missouri. The proposed substitution is expected to have no adverse impact on the establishment of a first local service to Monroe City, Missouri, and would provide a third commercial FM service to Columbia.

DATE: Comments must be filed on or before October 21, 1980, and reply comments on or before November 10, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: John Kamp, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Columbia and Monroe City, Missouri), BC Docket No. 80-527, RM-3509.

Adopted: August 19, 1980.
Released: August 29, 1980.

1. The Commission has before it a petition for rule making [1] filed on August 27, 1979, by Al Germond ("petitioner") proposing the assignment of Channel 269A to Columbia, Missouri, as its third commercial FM assignment, and the substitution of Channel 292A in Monroe City, Missouri, for Channel 269A now assigned there. No other comments were filed.

2. Columbia (pop. 58,804),[2] seat of Boone County (pop. 80,911), is located in central Missouri, approximately 193 kilometers (120 miles) west of St. Louis and approximately the same distance east of Kansas City, Missouri. According to population estimates provided by petitioner, from 1960 to 1970 the population of Columbia rose 60.5 percent and of Boone County 46.5 percent. Petitioner relies on local Chamber of Commerce figures to estimate the 1978 population of Boone County at 100,000 and of Columbia at 65,500.

3. Petitioner states that the economic base of Columbia is a combination of agriculture, light industry, health care, education, and insurance. The city contains the largest campus of the University of Missouri, Stephens College, and Columbia College. The city also has six hospitals, including the Harry S. Truman Veterans Administration Hospital, the University of Missouri Medical Complex and the Cancer Research Center. Several light industrial firms are also located there.

[1] Public Notice of the petition was given on October 31, 1979, Report No. 1198.

[2] Population figures are taken from the 1970 U.S. Census, unless otherwise indicated.

4. *Present Service:* (a) Columbia is served by two commercial FM stations (KCMQ, Channel 244A; and KFMZ, Channel 252A), four noncommercial FM stations (KCOU, Channel 201A; KOPN, Channel 208C; KWWC–FM, Channel 213D; and KBIA, Channel 217C), and two AM stations (KFRU, fulltime; and KTGR, daytime). (b) Monroe City presently has no aural broadcast service. Recently, Channel 269A was assigned there [3] pursuant to rule making initiated by Kenneth L. and Myra L. Bass, Rodney L. and Lynette Peterson, and Harold and Henrietta Sprick. Although these parties reaffirmed their intention to apply for the channel during the course of that rule making, no application has yet been filed for the channel.

5. *Preclusion:* Preclusion study for Channel 269A at Columbia by staff indicates no new preclusion area would be created by the proposed assignment, except for the co-channel where there is a small precluded area near Columbia. This precluded area overlaps part of the following three *counties* in Missouri: Boone, Cooper and Cole. Preclusion study done for Channel 292A at Monroe City by staff, assuming the transmitter located in the center of the city, indicates preclusion on Channels 289, 290 and 292A in all or parts of the following eleven *counties:* Macon, Shelby, Lewis, Marion, Randolph, Monroe, Ralls and Pike (in Missouri); and Adams, Brown and Pike (in Illinois).

6. Petitioner states that Channel 269A is the last available allocation to Columbia under the Commission's mileage separation rules. Further, it contends that the substitution of Channel 292A for Channel 269A at Monroe City will provide equivalent service as that community's first broadcast facility.

7. From available information, it appears that the proposed substitution of Channel 292A for the currently unused Channel 269A in Monroe City would have no adverse impact on the establishment of a first local service there. Meanwhile, a third commercial broadcast service to Columbia, Missouri, would comply with current population criteria for the allocation of FM channels and would provide a third commercial FM service there.

8. Accordingly, the Commission proposes to amend the FM Table of Assignments § 73.202(b) of the Commission's Rules and Regulations) with regard to the communities below as follows:

City	Channel No.	
	Present	Proposed
Monroe City, Mo.	269A	292A
Columbia, Mo.	244A, 252A	244A, 252A, 269A

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

10. Interested parties may file comments on or before October 21, 1980, and reply comments on or before November 10, 1980.

11. For further information concerning this proceeding, contact John Kamp, Broadcast Bureau, (202) 632–9660. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commssion or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

[BC Docket No. 80–527 RM–3509]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-27095 Filed 9-3-80; 8:45 am]
BILLING CODE 6712-01-M

[3] *Monroe City, Missouri,* BC Docket No. 79–16, adopted June 22, 1979.

47 CFR Part 73

[BC Docket No. 80–514; RM–3591]

FM Broadcast Station in Irmo, S.C.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: This action proposes to assign Channel 272A to Irmo, South Carolina, as its first FM channel in response to a petition from Santee-Cooper Broadcasting Co.

DATE: Comments must be received on or before October 17, 1980, and reply comments on or before November 6, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Irmo, South Carolina), BC Docket No. 80-514, RM-3591.

Adopted: August 15, 1980.

Released: August 29, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by Santee-Cooper Broadcasting Company ("petitioner") proposing the assignment of FM Channel 272A to Irmo, South Carolina, as that community's first FM assignment.

(b) Channel 272A could be assigned to Irmo in compliance with the minimum distance separation requirements provided the transmitter site is located 7.7 kilometers (4.8 miles) northeast of the community.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Demographic Data.*—(a) *Location.*—Irmo, South Carolina, is located in both Richland and Lexington counties, approximately 16 kilometers (10 miles) northwest of Columbia, South Carolina, the State Capital.

(b) *Population.* Irmo—517; [2] Lexington County—47,288; Richland County—198,161.

(c) *Local Aural Broadcast Service.* None.

3. *Economic Considerations.* Petitioner states that the population and overall growth of Irmo has skyrocketed considerably since the 1970 Census to more than 9,250 population. The petitioner describes Irmo as a rapidly developing middle to high income residential community.

4. In view of the fact that the proposed FM channel assignment would provide for a first local aural broadcast service to Irmo, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to the listed city, as follows:

City	Channel No.	
	Present	Proposed
Irmo, S.C.		272A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before October 17, 1980, and reply comments on or before November 6, 1980.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentations required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

[BC Docket No. 80-514 RM-3591]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-27098 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

[1] Public Notice of the petition was given on February 27, 1980, Report No. 1218.

[2] Population figures are taken from the 1970 U.S. Census.

47 CFR Part 73

[BC Docket No. 80-512; RM-3595]

FM Broadcast Station in Tremonton, Utah; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes the assignment of a Class C FM channel to Tremonton, Utah, in response to a petition filed by Bear River Broadcasting Co., Inc. The proposed channel could provide a first local FM broadcast service to Tremonton.

DATES: Comments must be filed on or before October 17, 1980, and reply

comments on or before November 6, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b) *Table of Assignments* FM Broadcast Stations (Tremonton, Utah), BC Docket No. 80-512, RM-3595.

Adopted: August 18, 1980.

Released: September 3, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by Bear River Broadcasting Co., Inc. ("petitioner"), proposing the assignment of Channel 264 to Tremonton, Utah, as that community's first FM assignment.

(b) The channel can be assigned to Tremonton, in compliance with the minimum distance separation requirements.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Community Data*—(a) *Location.* Tremonton is located in Box Elder County, approximately 104 kilometers (65 miles) north of Salt Lake City, Utah.

(b) *Population.* Tremonton—2,794 [2]; Box Elder County—28,129.

(c) *Local Aural Broadcast Service.* None. An application for a daytime only AM station on 1470 kHz is pending.

3. *Economic Consideration.* Tremonton's economy is based on agriculture, small industry and tourism to the northwest and Yellowstone Park regions. Petitioner states that the proposed assignment could provide a first FM service for about 3,000 persons in the area and a second FM service for about 600 persons. The proposal would also provide the residents of Tremonton an opportunity to receive coverage of public, social, governmental and sporting events held at night. Petitioner has submitted demographic and economic information with respect to Tremonton, to demonstrate a need for a first FM assignment.

4. *Preclusion Considerations.* Preclusion study was done for Channel 264 in Tremonton, Utah, with the assumption that the transmitter was located in the center of the city. The assignment of Channel 264 to Tremonton will cause preclusion on Channels 261A, 263, 264 and 265A, in all or parts of the following forty-three *counties: Idaho:* Custer, Fremont, Bannock, Jerome, Blaine, Jefferson, Teton, Camas, Clark, Caribou, Cassia, Lincoln, Bingham, Booneville, Gooding, Power, Oneida, Twin Falls, Minidoka, Butte, Madison and Ouyhee; *Nevada:* White Pine and Elko; *Utah:* Box Elder, Millard, Utah, Summit, Emery, Tooele, Sanpete, Wasatch, Daggett, Juab, Carbon, Duchesne, and Uintah; *Wyoming:* Teton, Fremont, Sublette, Lincoln, Sweetwater, and Uinta.

5. Generally, a community as small as Tremonton would be assigned a Class A channel. However, an exception is made where the Class C proposal could provide a significant amount of first or second FM service to surrounding areas and population. Petitioner states that the assignment of Channel 264 to Tremonton will provide a first FM service to 1195 square kilometers (467 square miles) for 2,907 persons and a second FM service to 796 square kilometers (311 square miles) for 591 persons.

6. Accordingly, in view of the foregoing, comments are invited on the following proposal to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to the community of Tremonton, Utah.

City	Channel No.	
	Present	Proposed
Tremonton, Utah		264

7. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before October 17, 1980 and reply comments on or before November 6, 1980.

9. For further information concerning this proceeding, contact Mark Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

[BC Docket No. 80-512 RM-3595]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments,

[1] Public Notice of the petition was given on February 27, 1980, Report No. 1218.

[2] Population figures are taken from the 1970 U.S. Census.

pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-27097 Filed 9-3-80; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-245; RM-2762; RM-2785; RM-2787; RM-2886; RM-2901; RM-3033; RM-3255; RM-3480]

FM Broadcast Stations in Blytheville, Jonesboro, Piggot, Paragould, Trumann, Walnut Ridge, and West Memphis, Ark.; Portageville, Mo., and Collierville, Tenn.; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule (Order).

SUMMARY: Action taken herein extends the time for filing reply comments in the proceeding involving the proposed assignment of FM channels to Blytheville, Jonesboro, Paragould, Piggot, Trumann, Walnut Ridge and West Memphis, Arkansas; Portageville, Missouri and Collierville, Tennessee, Wolfe Communications, requests the additional time to prepare and submit reply comments.

DATE: Reply comments must be filed on or before September 4, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Order Extending for Time Filing Reply Comments

Adopted: August 20, 1980.

Released: August 25, 1980.

In the matter of amendment of § 73.202(b), Table of assignments, FM Broadcast Stations. (Blytheville, Jonesboro, Piggot, Paragould, Trumann, Walnut Ridge, and West Memphis, Arkansas; Portageville, Missouri, and Collierville, Tennessee).

By the Chief, Policy and Rules Division:

1. On May 29, 1980, the Commission adopted a *Notice of Proposed Rule Making* proposing the changes in the FM Table of Assignments for Blytheville, Jonesboro, Paragould, Piggot, Trumann, Walnut Ridge, and West Memphis, Arkansas; Portageville, Missouri, and Collierville, Tennessee (45 Fed. Reg. 40176, published June 13, 1980). Reply comments are due on August 21, 1980.

2. Counsel for Wolfe Communications filed a request seeking additional time for filing reply comments in the proceeding to and including September 4, 1980. Counsel states that the proposal which involves seven alternate channel assignment plans is complicated, and there was an unavoidable delay in locating copies of comments filed by the petitioners.

3. We believe the public interest would be served by granting the extension so that Wolfe Communications may file information that may be helpful to the Commission in resolving this proceeding.

4. Accordingly, it is ordered, that the above request for an extension of time is granted and the date for filing reply comments is extended to and including September 4, 1980.

5. This action is taken pursuant to authority contained in Sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's rules.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast, Bureau.

[FR Doc. 80-27057 Filed 9-3-80; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-523; RM-3543]

FM Broadcast Station in Helena, Mont.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making and order to show cause.

SUMMARY: This action proposes to assign two Class C channels to Helena, Montana, and modify the licenses of the two existing Class A stations to specify the Class C channels in reponse to a petition filed by KCAP Broadcasters. The proposal will provide substantial first and second FM services.

DATES: Comments must be filed on or before October 17, 1980. and reply comments on or before November 6, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rule Making and Order To Show Cause

Adopted: August 15, 1980.

Released: September 3, 1980.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Helena, Montana).

By the Chief, Policy and Rules Division:

1. *Petitioner, Proposal, Comments:*

(a) A petition for rule making [1] was filed by KCAP Broadcasters, Inc. ("petitioner"), licensee of FM Station KCAP (Channel 276A), proposing the assignment of Class C FM Channel 266 to Helena, Montana.

(b) The channel can be assigned in compliance with the mileage separation requirements.

2. *Demographic Data:*

(a) *Location:* Helena, the state capital and seat of Lewis and Clark County, is located in the west-central part of the State, It is 800 kilometers (500 miles) southeast of Seattle.

(b) *Population:* Helena—22,730;[2] Lewis and Clark County—33,281.

(c) *Local Aural Service:* FM Station KBLL-FM, 221A; FM Station KCAP, 276A; Fulltime AM Station KBLL, 1240 kHz; Fulltime AM Station KCAP, 1340 kHz; Fulltime AM Station KMTZ, 950 kHz.

3. *Preclusion Considerations:* The assignment of Channel 266 to Helena, Montana, will cause preclusion to twenty-seven communities with populations greater than 1,000.[3]

4. In this case, the assignment of a Class C channel to Helena will create an intermixture with a Class A channel. However, data provided by the petitioner shows that a substantial first and second FM service would be provided. Petitioner states that the assignment of Channel 266 to Helena will provide a first FM service to approximately 3,859 square kilometers (2,412 square miles) for approximately 5,500 persons. No second FM service nor aural service figures were provided,

[1] Public Notice of the petition was given on February 1, 1980, Report No. 1211.

[2] Population figures are taken from the 1970 U.S. Census.

[3] Of these twenty-seven communities, thirteen have no FM assignments. The thirteen communities with their population and preclusions are: *Montana:* White Sulphur Springs (1,200)—263, 264, 265A, 266, 267, 268, 269A; East Helena (1,651)—263, 264, 265A, 266, 267, 268, 209A; Deer Lodge (4,306)—263, 265A, 266, 267, 268, 269A; Boulder (1,342)—263, 264, 265A, 266, 267, 268, 209A; Townsend (1,371)—263, 264, 265A, 266, 267, 268, 269A; Three Forks (1,168)—263, 264, 265A, 266, 267, 268, 269A; Walkerville (1,097)—263, 264, 265A, 266, 267, 268, 209A; Whitehall (1,035)—263, 264, 265A, 266, 267, 268, 269A; Philipsburg (1,128)—265A, 266, 267, 268, 269A; Choteau (1,586)—265A, 267; Conrad (2,770)—267; Big Timer (1,592)—266; Fort Benton (1,863)—266, 267.

Deer Lodge has an AM Station (KDRG).

although review of the data indicates that a substantial number of persons would receive a second FM service under this proposal.

5. Although petitioner has failed to state it wishes to have its license modified to specify the Class C channel or to apply for the channel, if assigned, we have treated this request as one for modification. The proposal has merit in that substantial first FM service would be provided. In addition, it has been the Commission's policy to avoid intermixture in such cases by also upgrading the other existing Class A station. In doing so, substantial second FM service to the present unserved areas would be provided. A search was conducted for another Class C channel available to Helena. The study indicated that Class C Channels 258, 259, 281, and 283 could be assigned to Helena. Therefore, we shall propose to modify the existing Class A Station KBLL-FM by issuing an *Order to Show Cause* to the licensee, Holter Broadcasting Corp. Station KBLL-FM will be entitled to reimbursement from KCAP Broadcasters (if modified as proposed herein) for the reasonable expenses connected with the change of frequency only. The upgrading of facilities to Class C minimum power and height is not reimbursable. See *Mitchell, South Dakota*, 63 F.C.C. 2d 70 (1976). Finally, should another interest in a Class C channel be expressed in comments, it may not be possible to permit the modification of either of the Class A licensees to specify Class C channels as proposed herein unless a third Class C channel assignment can be justified. See *Cheyenne, Wyoming*, 63 F.C.C. 2d 62 (1976); *Ogallala, Nebraska*, 45 Fed. Reg. 52845 (published August 8, 1980). We have not issued a separate Order to Show Cause for Station KCAP since we imply consent to the modification by virtue of its request.

6. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules, IT IS PROPOSED to amend Section 73.202(b), the FM Table of Assignments, for the community listed below as follows:

City	Channel No.	
	Present	Proposed
Helena, Montana	221A, 276A	258, 266

7. It is ordered, That, pursuant to Section 316(a) of the Communications Act of 1934, as amended, and with the understanding that it will receive reasonable reimbursement of expenses incurred in changing the channel on which it has a license, Station KBLL-FM shall show cause why its license should not be modified to specify operation on Channel 258 as proposed herein instead of the present Channel 221A.

8. Pursuant to Section 1.87 of the Commission's Rules and Regulations, the licensee of Station KBLL-FM, Helena, Mont., may not later than October 17, 1980, request that a hearing be held on the proposed modification. Pursuant to Section 1.87(f), if the right to request a hearing is waived, KBLL-FM may, not later than October 17, 1980, file a written statement showing with particularity why its license should not be modified as proposed in this *Order to Show Cause*. In this case, the Commission may call on KBLL-FM to furnish additional information, designate the matter for hearing, or issue, without further proceeding, an Order modifying the license as provided in the *Order to Show Cause*. If the right to request a hearing is waived and no written statement is filed by the date referred to above, KBLL-FM will be deemed to consent to the modification as proposed in the *Order to Show Cause* and a final Order will be issued by the Commisison, if the channel changes mentioned above are found to be in the public interest.

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. *NOTE:* A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

10. Since Helena, Montana is located within 402 kilometers (250) miles of the United States-Canada border, the proposed assignment requires coordination with the Canadian Government.

11. Interested parties may file comments on or before October 17, 1980, and reply comments on or before November 6, 1980.

12. It is further ordered, That the Secretary of the Commission shall send a copy of this *Notice* by certified mail return receipt requested to Holter Broadcasting Corporation, 2301 Colonial Drive, Helena, Montana 59601, the licensee affected in this proceeding.

13. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contract is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments

to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-27059 Filed 9-3-80; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-525; RM-3554]

FM Broadcast Station in Orem, Utah; Proposed Changes in Table of Assignments

AGENCY: The Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes the substitution of Channel 298 for Channel 296A at Orem, Utah, and modification of the license of the station currently operating on Channel 296A to specify operation on Channel 298. This proposal is made in response to a petition filed by Morris J. Jones, licensee of Station KABE(FM). The Class C channel could provide for coverage to surrounding areas and populations.

DATE: Comments must be filed on or before October 21, 1980 and reply comments on or before November 10, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau (202): 632-7792.

SUPPLEMENTARY INFORMATION:

[BC Docket No. 80-525; RM-3554]

Adopted: August 18, 1980.

Released: September 2, 1980.

In the matter of amendment of § 73.202(b). Table of Assignments, FM Broadcast Stations (Orem, Utah).

By the Chief, Policy and Rules Division:

1. *Petitioner, Proposal, Comments:*

(a) A petition for rule making [1] was filed by Morris Jones ("petitioner"), licensee of Station KABE(FM) (Channel 296A), Orem, Utah, proposing the replacement of Channel 296A with Class C FM Channel 298 at Orem, Utah, and modification of its license (for Channel 296A) to specify Channel 298. No responses to the proposal have been filed.

(b) The proposed channel can be assigned to Orem in compliance with the minimum distance separation requirements.

(c) Petitioner states he will apply for the channel, if assigned.

2. *Community Data:*

(a) *Location:* Orem, in Utah County, is located approximately 56 kilometers (35 miles) south of Salt Lake City.

(b) *Population: Orem—25,729* [2]; Utah County—137,776.

(c) *Local Aural Broadcast Service:* Orem is served locally by FM Station KABE (Channel 296A).

3. *Economic Considerations:* Petitioner claims that Orem's present estimated population is 52,000 as compared to 25,729 in 1970. It assert that a combination of factors contributed to this population growth, such as operation and expansion of Geneva Steel Mills, several light industrial manufacturing facilities, commercial expansion, and the increasing popularity of Utah Valley as a place of residence.

4. Petitioner states that its station (KABE(FM)) has difficulty in serving Orem due to low signal strength and multipath interference, apparently due to reflection of the signal off the nearby mountains to the east.
Petitioner claims that these factors, in addition to the unavailability of nearby transmitter sites on the mountains to the east, provide the basis for requesting a Class C facility. It asserts that with this increase in facilities better service would be provided to the outlying areas to the north and northwest of Orem and northern Utah County. Petitioner has submitted letters from residents and businessmen in these areas who have expressed their support for the assignment of a Class C channel to Orem.

5. *Preclusion Study:* Assuming that Channel 296A would be deleted from Orem and the proposed transmitter site for the proposed Channel 298 is located in the center of the city, preclusion would be caused on Channel 295 through 300 in all or part of the following *counties:*

Colorado—Moffat, Rio Blanco, Garfield, Mesa
Idaho—Casia, Power, Bannock, Caribou, Bear Lake, Oneida, Franklin
Nevada—Elko, White Pine, Lincoln
Utah—Tooele, Summit, Salt Lake, Duchesne, Wastatch, Utah, Juab, Sanpete, Carbon, Morgan, Uintah, Millard, Beaver, Piute, Wayne, Sevier, Emery, Grand, Daggett, Davis, Weber
Wyoming—Uinta, Sweetwater, Sublette, Lincoln

It should be noted that the pending proposed assignments to Clearfield and Roy, Utah (RM-3617) have not been taken into consideration in this study. Clearfield is 93 kilometers (58 miles) from Orem and the minimum separation requirement is at least 104 kilometers (65 miles) for second adjacent Class C operation. Therefore, depending on the outcome of the Clearfield-Roy proposal, a site restriction will be necessary for one or both of these proposals.

6. In the event an additional interest were expressed in the Class C channel here proposed, petitioner's license could not be modified to specify operation on Channel 298. According to Commission policy, as set forth in *Cheyenne, Wyoming,* 62 F.C.C. 2d 63 (1976), other parties must be afforded an opportunity to state their interest in applying for a newly assigned Class C channel. Only in the absence of such interest could petitioner's license be modified. Since no person has yet expressed an interest in the proposed assignment of Channel 298 at Orem, we are proposing to modify the license of Station KABE(FM). However, should petitioner desire to withdraw its request in the face of a competing interest, we would be amenable to permit termination of this proceeding. See *Statesboro, Ga.,* RM-2566, Mimeo No. 82040, *Memorandum Opinion and Order,* released May 17, 1977, 40 R.R. 2d 1021.

7. An *Order to Show Cause,* requested by the petitioner, is not necessary since consent to a modification of its license is indicated by its request for a Class C channel.

8. In light of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as to the named community, as follows:

City	Channel No.	
	Present	Proposed
Orem, Utah	296A	298

9. The Commission's authority to institute rule making proceedings, showings required, cutoff procedures, and filing requirments are contained in the attached Appendix and are incorporated by reference herein.

[1] Public Notice of the petition was given on February 1, 1980, Report No. 1211.

[2] Population figures are taken from the 1970 U.S. Census.

Note.—A showing of continuing interest is required by paragraph 2 before a channel will be assigned.

10. Interested parties may file comments on or before October 21, 1980, and reply comments on or before November 10, 1980.

11. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showing required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 80-27060 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-524; RM-3400; RM-3516]

TV Broadcast Stations in Sanger, Clovis, Visalia, and Fresno, Calif.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action here sets forth four options for changes in the TV Table of Assignments in the Fresno, California, area in response to petitions filed by Golden-Door Properties and Sanger Telecasters. The communities potentially affected include Fresno, Clovis, Visalia and Sanger, California.

DATES: Comments must be filed on or before October 17, 1980, and reply comments on or before November 6, 1980.

FOR FURTHER INFORMATION CONTACT: John Kamp, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

In the matter of Amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Sanger, Clovis, Visalia, and Fresno, California).

Adopted: August 15, 1980.

Released: September 5, 1980.

By the Chief, Policy and Rules Division:

Petitions, Comments, and Replies

1. The Commission has before it two petitions for changes in the Table of Assignments related to UHF television for communities within 15 miles of Fresno, California, which are considered together here because of the cities' proximity to one another and to Fresno.

2. Golden-Door Properties, Ltd. ("Golden-Door") requested [1] the deletion of Channel *43 from Visalia, California, and its reassignment as a commercial channel to Clovis, California, as a first TV assignment to Clovis. Golden-Door also suggested Channel *49 as a replacement for Channel *43 at Visalia. Comments in opposition were filed by Pappas Telecasting Incorporated ("Pappas") and Tulare County Board of Education ("Board of Education"). Golden-Door filed a reply to the comments in opposition and reaffirmed its intention to apply for Channel 43 if that channel is assigned to Clovis.

3. Sanger Telecasters ("Sanger") petitioned [2] for the assignment of Channel 59 to Sanger, California, as the first TV assignment to that community. Pappas also filed a comment in opposition to the Sanger petition. Sanger filed a reply and reaffirmed its commitment to apply for Channel 59 if that channel is assigned to Sanger.

Community Data

4. *Clovis:* The city of Clovis is located approximately 320 kilometers (200 miles) north of Los Angeles and 265 kilometers (165 miles) southeast of San Francisco. It is situated in the center of the San Joaquin Valley region, 16 kilometers (10 miles) northeast of Fresno. The population of Clovis according to the 1970 U.S. Census was 13,856. Petitioner Golden-Door relies on State Department

[1] Public Notice of the petition was given on October 31, 1979, Report No. 1198.

[2] Public Notice of the petition was given on July 11, 1979, Report No. 1183.

of Finance data to support a 1978 population estimate of 27,523. There is no local television broadcast service in Clovis.

5. *Fresno:* Fresno (pop. 165,972) is in Fresno County (pop. 413,329).[3] Demographic data submitted by petitioner Sanger include a county population estimate of 463,700 in 1977. Five television stations are currently licensed to Fresno: Channel *18, KMTF; Channel 24, KMJ–TV; Channel 30, KFSN–TV; Channel 47, KJEO; Channel 53, KAIL. According to Pappas, two additional stations not licensed to Fresno identify themselves as part of the Fresno market: Channel 21, KETV, licensed to Hanford; and Channel 26, KMPH, Licensed to Visalia (allocated to Tulare).

6. *Sanger, California:* The city of Sanger is situated in the center of the San Joaquin Valley, 21 kilometers (13 miles) east of the city of Fresno. The population of Sanger was 10,088, and petitioner Sanger relies on the Sanger District Chamber of Commerce to support a 1977 population estimate of 10,800. There is no local television service in Sanger.

7. *Clovis Petition:* Channel 43 can be assigned to Clovis in compliance with the minimum distance separation requirements, provided Channel *43 is deleted from Visalia, Calif. Alternately, the Commission's staff has determined that Channel 69 could be assigned to Clovis. Golden-Door has requested the assignment of Channel 43 to Clovis, rather than some other available channel, because it has a share in the ownership of an antenna previously used at Visalia on Channel 43. Golden-Door contends that this part-ownership would facilitate its commencement of service to Clovis.

8. The Board of Education objected to the Golden-Door petition. As the Government entity responsible for public education in Tulare County, California, the Board of Education initiated the rule making proceeding (Docket 20625) which led to the reservation of Channel *43 to Visalia, Calif., for noncommercial educational use. Although the Board of Education admitted considerable delay in its effort to establish a station at Visalia, it reported a continuing effort to create a consortium of county schools to establish the station there, and that one potential member of the consortium is completing a facility for a television studio at Visalia. The Board of Education contended that a change in the assignment at Visalia would further delay its progress, and asked why other available channels could not be assigned to Clovis. Further, it questioned the "share of ownership" and potential usefulness of the old Channel 43 antenna by Golden-Door. In its reply, Golden-Door alleged that the Board of Education took no concrete steps toward establishing a station for the two and one-half years subsequent to the reservation of Channel *43 at Visalia. Further, Golden-Door questioned the Board of Education's suggestion that a different channel assignment at Visalia would further delay the school system's attempt to establish a channel there.

9. Pappas objected to the Clovis assignment based mainly on its contention that Golden-Door intends to become a Fresno station in competition with the six stations listed in paragraph 5 above, including Station KMPH licensed to Pappas at Visalia. Golden-Door replied that it intends to provide local programming for Clovis, and in any case, that competitive considerations are not appropriately entertained in a rule making procedure for change in allocation.

10. *Sanger Petition:* Channel 59 can be assigned to Sanger in compliance with minimum distance separation requirements, and with no site restrictions. Pappas objected to the Sanger petition on essentially the same grounds as it objected to the Golden-Door petition outlined above in paragraph 9. Petitioner Sanger replied that if Channel 59 is assigned to the city of Sanger, and petitioner Sanger's application is granted, it will provide local programming for the city of Sanger.

Comments

11. Pappas in opposition to both petitions considered here cited *Waukegan, Illinois,* 15 R.R. 2d 1509 (1969) wherein a petition for rule making was denied because no assurance was offered that the channel would be activated or, if activated, that it would provide a local service to Waukegan rather than provide another television service to the Chicago market. Here petitioners asserted their intentions to provide local service, but did not directly address the issue of their anticipated service to and economic dependence upon the nearby Fresno market. Although the Commission does not find this failure sufficient to deny institution of rule making here, it considers the issues important enough to require further support.[4] Thus, petitioners Golden-Door and Sanger are invited to further explain their expectations and intentions concerning service to and economic dependence upon the greater Fresno market. Additional information would also be helpful on the extent to which the cities of Clovis and Sanger are effectively served by existing Fresno stations.[5]

12. In this regard, it should be noted that both Channels 43 and 59 can be assigned to Fresno and used at Clovis and Sanger, respectively, under the Commission's 15-mile rule. Section 73.607(b).[6]

13. Regarding the petition by Golden-Door, the Commission desires further information from both Golden-Door and the Board of Education concerning the merits of assigning Channel 43 at Clovis rather than Channel 69. Although both Golden-Door and the Board of Education contend that Channel 43 would better serve their respective needs and thus the public interest, more complete information from both parties could well facilitate the Commission's decision on the matter. Specifically, the Commission seeks a verification of the ownership for the equipment tuned to Channel 43 and its current condition. Further, since the Board of Education stated that it no longer has equipment for Channel 43, the Commission desires further information on how a channel reassignment might further delay its establishment of a station.

14. Much of the opposition by Pappas to both the Golden-Door and Sanger petitions concerned possible increased economic competition in the Fresno television market. Although the Commission theoretically has an interest in such competition when it would adversely affect overall service to the public in the area, the matter becomes relevant not in the allocation stage but rather after an application has been filed for an allocated channel.[7]

15. Accordingly, the Commission presents the following alternatives for amending Section 73.606(b) of the Commission's Rules, the Television Table of Assignments. Note that if either alternative III or IV is adopted, interested parties may apply for a newly assigned channel for use at either at Clovis or Sanger under the "15-mile" rule (Section 73.607(b)).

[3] All population figures are taken from the 1970 U.S. Census, unless otherwise indicated.

[4] See also: *Upper Marlboro, Maryland,* 10 F.C.C. 2d 578 (1967); *Oklahoma City, Oklahoma,* Docket 79–136, 44 Fed. Reg. 67664, published November 27, 1979.

[5] See: *Denton, Texas,* 10 F.C.C. 2d 532 (1967), 11 R.R. 2d 1630.

[6] See: *Orange Park, Florida, Report and Order,* BC Docket No. 79–90.

[7] See: *Carroll Broadcasting Company* v. *Federal Communications Commission,* 258 F. 2d 440 (1958).

City	Channel No. Present	Proposed
Option I		
Clovis, Calif.		43
Visalia, Calif.	*43	*49
Sanger, Calif.		59
Option II		
Clovis, Calif.		69
Sanger, Calif.		59
Option III		
Fresno, Calif.	*18+, 24, 30+, 47, 53	*18+, 24, 30+, 43, 47, 53, 59
Visalia, Calif.	*43	*49
Option IV		
Fresno, Calif.	*18+, 24, 30+, 47, 53	*18+, 24, 38+, 47, 53, 59, 69

16. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

17. Interested parties may file comments on or before October 17, 1980, and reply comments on or before November 6, 1980.

18. For further information concerning this proceeding, contact John Kamp, Broadcast Bureau, (202) 632-9660. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the TV Table of Assignments, Section 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-27058 Filed 9-3-80; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-520; RM-3358]

FM Broadcast Stations in Aguada, Arecibo, Cidras, Lajas, Manati, Mayaguez, Quebradillas and Utuado, P.R.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Pursuant to a petition for rulemaking filed by Aurio Matos, Arzuaga and Davila Associates, Radio Musical, Inc., and Enrique Leon, the Commission proposes to substitute Class B Channels 281, 248 and 245 for the Class A channels at Aguada, Cidra and Quebradillas, Puerto Rico. To accommodate these changes, the Commission also proposes to modify the licenses of existing Stations WNIK-FM at Arecibo, WMLD at Manati, WIOA at Mayaguez, and WERR at Utuado, Puerto Rico. Channel 249A would be assigned to Lajas, Puerto Rico.

DATES: Comments must be filed on or before October 17 1980, and reply comments on or before November 6, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Myra G. Kovey, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments, FM Broadcast Stations. (Aguada, Arecibo, Cidra, Lajas, Manati, Mayaguez, Quebradillas and Utuado, Puerto Rico), BC Docket No. 80-520, RM-3358.*

Adopted: August 15, 1980

Released: September 5, 1980.

1. Before the commission is a petition for rule making filed by Aurio Matos, licensee of FM Station WRFE, Aguada, Puerto Rico; Arzuaga and Davila Associates, licensee of FM Station WREI, Quebradillas, Puerto Rico; Radio Musical, Inc., licensee of FM Station WBRQ, Cidra, Puerto Rico; and Enrique Leon (collectively referred to hereafter as "petitioners").[1] Briefly stated, it is the wish of the existing licensees to change their present Class A channels to Class B assignments, creating in the process a

[1] Public Notice was given on April 16, 1979, Report No. 1172.

new Class A assignment (Channel 249A) at Lajas, Puerto Rico, for which petitioner Enrique Leon proposes to apply. Petitioners desire the following assignments:

Channel 281 for Aguada (replaces 288A)
Channel 248 for Cidra (replaces 249A)
Channel 245 for Quebradillas (replaces 252A)

To accommodate these new assignments petitioners propose substitution of channels for four existing Puerto Rican FM stations:

Channel 251 for Channel 293 at Arecibo (Station WNIK–FM)
Channel 293 for Channel 245 at Manati (Station WMLD)
Channel 291 for Channel 248 at Mayaguez (Station WIOA)
Channel 279 for Channel 281 at Utuado (Station WERR)[2]

Petitioners have agreed to reimburse all affected stations for the costs of these changes.[3]

2. Oppositions have been filed by the four affected stations, namely, Arecibo Radio Corporation, Inc., licensee of Station WNIK–FM, Arecibo; [4] Arecibo Broadcasting Corporation, licensee of Station WMLD, Manati; Radio Americas Corporation, licensee of Station WIOA, Mayaguez; and Radio Redentor, Inc., licensee of Station WERR, Utuado.[5] In addition, Guayama Broadcasting Company, Inc., licensee of Stations WXRF and WXRF–FM, Guayama, has opposed the petition as conflicting with proposed improvements in its facilities.

3. Opponents argue that petitioners would severely disrupt existing service solely to further their own private ends. Although an adequate public interest basis for the proposals has not been fully established, particularly where so major a reshuffling of operating facilities is contemplated,[6] further discussion (rather than the outright dismissal urged by opponents) seems appropriate in order to afford adequate opportunity to ascertain the public interest factors. Additional information might be added to this record which are sufficient to warrant pursuing the petitioners' request.

4. *Technical Inadequacy.* As petitioners have shown no inability to cover their communities of license or to comply otherwise with our technical requirements, the grounds for their complaints of inadequate signals are unclear. Reference is made by petitioners to their stations' inability to cover their "municipios." If these local governmental units are comparable to mainland counties, as appears to be the case, petitioners are neither obligated nor entitled to serve them. If, on the other hand, "municipios" are more properly considered communities for licensing purposes, petitioners' coverage concerns would have merit. In any event, whatever the status of the "municipio," petitioners should consider whether improved operating facilities or other measures would produce their desired results.

5. *Increased Coverage.* Given the large number of aural services presently licensed in Puerto Rico, we will assume that petitoners propose no first or second FM or aural service. This assumption is, of course, rebuttable.[7]

6. *Competitive Equality.* Petitioners sought or acquired their Class A stations with full knowledge that Puerto Rico's FM assignments are primarily Class B operations. [8] To now raise general complaints as to the unfairness of this allocation scheme is inappropriate. A demonstration that wider coverage stations would further some public interest goals could warrant further consideration, however.

7. *Preclusion.* Petitioners incorrectly omit preclusion studies. While some of their requested channels are presently assigned to existing communities, substitute channels proposed for Arecibo, Mayaguez and Utuado are new assignments for which preclusion studies are necessary.

8. *Programming Confusion.* Radio Redentor, licensee of Station WERR at Utuado, expresses concern at the proposed use of it frequency by Station WRFE, Aguada. Both stations have essentially religious formats, it states, the primary difference being that Station WERR is run by a nonprofit organization while Station WRFE is a commercial operation. We agree that the use of Radio Redentor's existing frequency by a station with the same format may cause confusion, and initially perhaps, loss of audience and support for Station WERR. That the public will suffer, though, *i.e.* that the station will be unable utimately to retain its identity and sustain its operation, is a proposition that we cannot simply assume to be valid. More than an allegation to this effect is called for.

9. *The Lajas Proposal.* Lajas is located in the southern corner of Puerto Rico, approximately 112 kilometers (70 miles) from San Juan. Its population of 3,391 (1970 U.S. Census) represents a 271 percent increase over the 1960 figure, we are told. There are presently no local aural services in the city.

10. *Other Considerations.* In addition to the petition for rule making, we have before us a request for clarification of our *Cheyenne* policy as it applies to this proceeding.[9] We held in *Cheyenne, Wyoming,* 62 F.C.C. 2d 53, 38 R.R. 2d 1665 (1976), that where a licensee operating on a Class A channel seeks a Class B (or C) assignment for its community, we will not modify its license to specify the Class B (or C) channel if any other person expresses a desire to apply for the newly assigned frequency. In *Statesboro, Georgia,* Mimeo No. 82040, 40 R.R. 2d 1021 (1977), we permitted withdrawal of the petition for rule making when interest in the new frequency was actually shown. There is, as petitioners maintain, language in both cases to the effect that modification will be permitted where the Class A channel is deleted for "technical reasons." An exception to the *Cheyenne* policy for "technical reasons" was intended to protect licensees whose assignments are modified not at their request but instead to further general allocation policies of the Commission. Although as petitioners' argue, there are technical reasons to delete the Class A channels here, the *Statesboro* case nevertheless represents the Commission's policy as to how a case of this type is presently being handled. Thus, in cases where an existing licensee seeks to upgrade its facilities, the mere fact that engineering or other "technical" considerations play a role in the request does not make the *Cheyenne* policy inapplicable. To hold otherwise would in our view create so many exemptions—Technical considerations being so frequently a factor in FM allocation cases—as to make the policy meaningless.

11. As for the specific situation here, having sought the Class B assignments themselves, petitioners are not entitled to modification as a matter of right.

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[2] A Channel 281 assignment at Aguada would require a transmitter site approximately 8.5 kilometers (5.3 miles) west of the community. Channel 249A at Lajas would require a site 6.4 kilometers (4 miles) southwest of the city. The Cidra and Quebradillas licensees also propose new transmitter sites although changes are not necessary to meet spacing requirements.

[3] As the proposed changes are mutually dependent, they will be treated as a unit rather than independently.

[4] Good cause has been shown for the slight delay in filing this opposition and it will be accepted.

[5] The populations of the affected communities are as follows: Aguada—4,590; Arecibo—35,484; Cidra—6,306; Lajas—3,391; Manati—13,483; Mayaguez—68,872; Quebradillas—2,840; Utuado—11,573. (All figures from the 1970 U.S. Census.)

[6] Petitioners' private interest in increased service areas is obvious and requires no discussion here.

[7] One of opponents' major criticisms is that only petitioners will benefit from the large service areas, *i.e.*, that the public has no recognizable interest in additional aural services.

[8] The island has thirty-one Class B assignments and five Class A assignments.

[9] Petitioners' request for declaratory ruling on this matter was dismissed earlier on the grounds that the issue was mor appropriately addressed in the context of a *Notice of Proposed Rule Making.* In light of our discussion here, the petition for reconsideration of this dismissal is now moot.

Rather, we will invite expessions of interest in the requested frequencies before making such commitments. We do not wish to discourage petitioners and others like them from seeking improved facilities, however, a result which would be inevitable if petitioners had to risk deletion of their Class A facilities without assurance of new Class B assignments. For just this reason, the applicant in *Statesboro* was permitted to withdraw its petition when interest was expressed. We will permit withdrawal here as well, should similar circumstances develop.

12. An *Order to Show Cause* to each of the petitioners is not necessary since consent to the modification of their licenses is indicated by their request for Class B assignments.

13. In view of the foregoing, we find it in the public interest to explore the following revisions in the FM Table of Assignments (§ 73.202(b) of the Commission's rules) as it pertains to the following cities:

City	Channel No.	
	Present	Proposed
Aguada, Puerto Rico	288A	281
Arecibo, Puerto Rico	293, 297	251, 297
Cayey, Puerto Rico [10]	249A	
Cidra, Puerto Rico		248
Lajas, Puerto Rico		249A
Mayaguez, Puerto Rico	231, 248, 256	231, 256, 291
Quebradillas, Puerto Rico	252A	245
Utuado, Puerto Rico	281	279
Manati, Puerto Rico	245	293

[10] Channel 249A is assigned to Cayey but used at Cidra under the Commission's 10-mile rule (§ 73.203(b)).

14. It is further ordered, that pursuant to Section 316 of the Communications Act of 1934, as amended, Arecibo Radio Corp., Inc., licensee of Station WNIK–FM, Arecibo, Puerto Rico, shall show cause why its license for Station WNIK–FM should not be modified to specify operation on Channel 251 in lieu of its present assignment.

15. It is further ordered, that pursuant to Section 316 of the Communications Act of 1934, as amended, Arecibo Broadasting Corp., licensee of Station WMLD, Manati, Puerto Rico, shall show cause why its license for Station WMLD should not be modified to specify operation on Channel 293 in lieu of its present assignment.

16. It is further ordered, that pursuant to Section 316 of the Communications Act of 1934, as amended, Radio Americas Corp., licensee of Station WIOA, Mayaguez, Puerto Rico, shall show cause why its license for Station WIOA should not be modified to specify operation on Channel 291 in lieu of its present assignment.

17. It is further ordered, that pursuant to Section 316 of the Communications Act of 1934, as amended, Radio Redentor, Inc., licensee of Station WERR, Utuado, Puerto Rico, shall show cause why its license for Station WERR should not be modified to specify operation on Channel 279 in lieu of its present assignment.

18. Pursuant to § 1.87 of the Commission's rules and regulations, the licensees of Stations WNIK–FM, WMLD, WIOA and WERR may, not later than 1980, request that a hearing be held on the proposed modification. Pursuant to § 1.87(f), if the right to request a hearing is waived, Aricibo Radio Corp., Arecibo Broadcasting Corp., Radio Americas Corp. and Radio Redentor, Inc. may, not later than October 17, 1980, file a written statement showing with particularity why its licenses should not be modified, or not so modified as proposed in the Order to Show Cause. In this case, the Commission may call on the above licensees to furnish additional information, designate the matter for hearing, or issue without further proceeding and Order modifying the license as provided in the Order to Show Cause. If the right to request a hearing is waived and no written statement is filed by the date referred to above, the above licensees are deemed to consent to the modification as proposed in the Order to Show Cause and a final Order will be issued by the Commission if the channel changes referred to in paragraph 12 above are found to be in the public interest.

19. Authority to institute rule making proceedings showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

20. Interested parties may file comments on or before October 17, 1980, and reply comments on or before November 6, 1980.

21. For further information concerning this proceeding, contact Myra G. Kovey, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until it is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

22. It is further ordered, that the Secretary shall send a copy of this *Order* by certified mail, return receipt requested, to Arecibo Radio Corp., Inc., P.O. Box 1075, Arecibo, Puerto Rico 00612; Arecibo Broadcasting Corp., Betances & Quinones Sts., Manati, Puerto Rico 00701; Radio Americas Corp., P.O. Box 43, Mayaguez, Puerto Rico 00708; and Radio Redentor, Inc., 5 miles north of La Plata, Utuado, Puerto Rico 00612, the parties to whom the *Orders to Show Cause* are directed.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[EC Docket No. 80–520 RM–3358]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g), and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial

comments herein. If they are fired later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-27085 Filed 9-3-80; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 173 and 178

[Docket No. HM-176; Notice No. 80-7]

Specification and Usage Requirements for New DOT 3AL Seamless, Aluminum Cylinders

Correction

In FR Doc. 80-24646 appearing on page 54097 in the issue of Thursday, August 14, 1980, make the following corrections:

(1) On page 54101, in the table for § 173.304(a)(2), in the first column, the second and third entries now reading:

Carbon dioxide, liquefied (See Notes 4, 7, and *) .....
Carbon dioxide-nitrous oxide mixture (See Notes 7 and *).....

should have read:

Carbon dioxide, liquefied (See Notes 4, 7, and 8) .....
Carbon dioxide-nitrous oxide mixture (See Notes 7 and 8).....

(2) In the same table, the entry for monochlorodifluoromethane, "* * * DOT-4B24 ET; * * *" should have read "* * * DOT-4B240 ET; * * *".

(3) On page 54105, in § 178.46-7(b), in the formula, "$S=[P(1.3D^2+0.4d^2)]/[D^2-d^2-d^2]$" should have read "$S=[P(1.3D^2+0.4d^2)]/[D^2-d^2]$".

BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1111

[Ex Parte No. 282 (Sub.-5)]

Rulemaking Concerning Traffic Protective Conditions in Railroad Consolidation Proceedings

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to comment on notice of proposed rulemaking. Corrected Notice.

SUMMARY: A Notice of Proposed Rulemaking in this proceeding was published at 45 FR 46461 (July 10, 1980). The notice proposed a rule to treat the imposition of traffic protective conditions in future railroad consolidation proceedings, and to interpret existing traffic protective conditions imposed in past railroad consolidation proceedings. Comments were required to be filed in 60 days.

In response to a petition for extension by the Commission's Office of Special Counsel, a decision was entered extending the comment period 30 days to October 8, 1980. By September 8, 1980, all parties planning to participate must notify the Commission, and indicate whether they intend to participate generally, on the facts of a particular consolidation, or both. From this information a service list shall be prepared and distributed. General comments must be served to all parties on the service list. Comments concerning the retention of the "DT&I conditions" in a specific proceeding need only be served on the applicants in that proceeding. Replies may be permitted at a later date.

In the Federal Register of August 26, 1980, 45 FR 56849, it was incorrectly stated that the comment period is extended to October 30, 1980. The comment period is extended only to October 8, 1980. Also, the person to contact for further information is Ellen D. Hanson.

DATES: The comment period is extended to October 8, 1980. By September 8, 1980, all parties planning to participate must notify the Commission, and indicate whether they intend to participate generally, on the facts of a particular consolidation, or both.

FOR FURTHER INFORMATION CONTACT: Ellen D. Hanson, (202) 275-7245.

By the Commission, Gary J. Edles, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-27105 Filed 9-3-80; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 601

Regional Fishery Mangement Councils; Intercouncil Boundaries

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Notice of proposed rulemaking and reguest for comments.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is proposing regulations to change the boundary between the South Atlantic and Gulf of Mexico Fishery Management Councils. The boundary would be redrawn according to geographic factors only, so that each Council's area of mangement authority corresponds with the locations of the Atlantic Ocean or the Gulf of Mexico.

The Assistant Administrator for Fisheries proposes that the boundary between the Gulf of Mexico and the South Atlantic Fishery Management Councils be redrawn along the line adopted by the U.S. Supreme Court for purposes of the Submerged Lands Act.

DATE: Comments must be received by October 6, 1980.

ADDRESS: Comments should be sent to: Mr. Terry L. Leitzel, Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Harold Allen, Acting Regional Director, National Marine Fisheries Service, Southeast Regional Office, 9450 Koger Boulevard, St. Petersburg, Florida 33702, (813) 893-3141 or FTS 826-3141.

SUPPLEMENTARY INFORMATION: On January 8, 1977, NOAA published interim regulations (50 CFR 601.12(c)(1) and (2)) establishing the inter-Council boundary between the Gulf and South

Atlantic Fishery Management Councils as an eastward extension of the line separating Dade and Monroe Counties in Florida. On April 20, 1979, the interim regulations were republished without change as final regulations (44 FR 23520).

The Assistant Administraotr for Fisheries made his determination on the basis of a NOAA General Council legal opinion that the Fishery Conservation and Management Act of 1976 authorized him to consider fishery management factors as well as geography in establishing a boundary. After publication of the final regulations, NOAA asked the Office of Legal Counsel (OLC) in the Department of Justice to review this opinion. The Department of Justice concluded that "boundaries between Regional Fishery Management Councils are to be established solely on the basis of geographic factors."

Based on the Department of Justice opinion and on the U.S. Supreme Court's 1975 ruling in the case of *United States* v. *Floida* that the Straits of Florida are in the Atlantic Ocean, the Assistant Administrator for Fisheries has determined that the boundary line between the Gulf of Mexico Fishery Management Council and the South Atlantic Fishery Management Council should be changed. He proposed to adopt the line established in the case of *United States* v. *Florida,* 420 U.S. 531 (1975). Generally, the line runs from the Florida mainland down the middle of the keys to the Dry Torgugas, then south to the outer boundary of the fishery conservation zone.

Note.—The Assistant Administrator finds that this proposed regulation is an agency management procedure that does not require action under Executive Order 12044 or the National Environmental Policy Act.

Signed at Washington, D.C., this 28th day of August 1980.

Robert K. Crowell,

Deputy Executive Director National Marine Fisheries Service.

(16 U.S.C. 1801 *et seq.*)

Sections 601.12(c) is proposed to be amended by striking the paragraph and substituting the following:

§ 601.12 Intercouncil boundaries.

* * * * *

(c) *South Atlantic and Gulf of Mexico Fishery Management Councils*—(1) *Description.* The boundary begins at the intersection of the outer boundary of the FCZ and the 83° W. longitude, proceeds north to 24° 35'N. latitude (Dry Tortugas), east to Marquesas Key, then through the Florida keys to the mainland.

(2) *Method of Determination.* The boundary adopts the line determined in *United States* v. *Florida* to separate the Atlantic Ocean from the Gulf of Mexico.

[FR Doc. 80-27108 Filed 9-3-80; 8:45 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 45, No. 173
Thursday, September 4, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Classification, Management, and Development Plan, Boundaries for Northern Fork American Wild and Scenic River

Pursuant to the authority delegated to the Chief, Forest Service by the Secretary of Agriculture in 7 CFR 2.60, the classification, management and development plan, and boundaries for the North Fork American Wild and Scenic River are established as hereinafter set forth. The material which follows is contained within the full text of the management plan and the North Fork American Wild and Scenic River Study Report and Draft Environmental Statement which was submitted to the Environmental Protection Agency on March 14, 1978. Copies were furnished the President of the Senate and the Speaker of the House of Representatives on March 14, 1979, in accordance with the subsection 3(b) of the Wild and Scenic Rivers Act (82 Stat. 908).

Therefore, the summary of the Management and Development Plan, and the boundaries for the North Fork American Wild and Scenic River are as follows:

Dated: August 25, 1980.

Douglas R. Leisz,

Associate Chief.

Management and Development Plan Summary

Management

Section 10(a) of the Act states:

Each component of the National Wild and Scenic Rivers System shall be administered in such a manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration primary emphasis shall be given to protecting its aesthetic, scenic, historic, archaeologic and scientific features. Management plans for any such component may establish varying degrees of intensity for its protection and development, based on the special attributes of the Area.

The North Fork American River designated as a wild river will be managed to give primary emphasis to protecting the river values which make it outstandingly remarkable. In particular to:

Maintain and protect the free-flowing nature of the river, preserve the natural beauty, historic and archaeological values for this and future generations, and enhance the recreational and ecological values and to provide for the public enjoyment of the area.

Under these principles, the following is a summary of the guidelines which have been established to provide direction for management and administration of the North Fork American River and its adjoining lands (River Management Zone):

The wild river is to be administered by agencies of the Departments of the Interior and Agriculture as agreed upon by the Secretaries of such Departments or as directed by the President.

Management of private land within the River Management Zone will be compatible with the wild classification. Scenic easements, trail right-of-ways and right of public to traverse the river shoreline will be acquired from private landowners. Condemnation procedures will be used where necessary.

Recreation facilities or other development will be limited to those necessary to protect the wild river while recreation uses and activities will be directed toward maintaining natural values.

Grazing will be limiting to recreational and pack stock.

Cutting of trees will not be permitted except when needed to protect public health and safety, control of fire, implementation of disease prevention and control and other needs in association with primitive recreation experiences.

Protection of water quality will take precedence when there is a conflict between water quality and other uses, resources, and activities.

Fish and wildlife habitat will be managed in a manner compatible with the wild river environment.

Mineral activities on valid claims existing prior to January 3, 1975, will be monitored to ensure operations are compatible with the objectives of wild river management.

Motorized land and water vehicles and suction dredges will be prohibited within the River Management Zone. Trail bridges will be allowed where needed.

Preference will be given to fire suppression methods which least alter the landscape.

Existing uses on Federal land which are not compatible with management objectives will be terminated as soon as possible.

Development

A modest recreational development program has been prepared which is directed at protecting and preserving the wild river environment while still providing a minimum amount of development. The river will be managed to provide for dispersed type recreation in which outdoor skills are required and solitude prevails.

Camping, trailhead parking and related facilities are planned at the Gold Run Addition area. A picnic (day use) area in the Colfax-Iowa Hill Bridge area will be coordinated with the California State Parks and Recreation Department's Auburn Reservoir Development proposal. Primitive sanitation facilities will be inconspicuously located at selected sites.

Existing trail access is considered to be sufficient except in the general vicinities of Palisades Creek, Pickering Bar-Canyon Creek and Robbers Bar where additional trail access is planned. Trail improvement and right-of-way needs have been inventoried. Trailhead facilities are proposed near the canyon rim, outside the River Management Zone on selected trails.

Development of two scenic overlooks at Lovers Leap and Big Valley Bluff are planned. These will provide those persons who would not otherwise be able, because of age, handicap, etc., with an opportunity to enjoy the natural beauty of the river canyon.

An interpretative program may be developed to provide opportunities for the public to gain an understanding of prior activities of a historic and archaeological nature.

Introduction

Pub. L. 95-625, November 10, 1978, amended Pub. L. 90-542, October 2, 1968,

"The Wild and Scenic Rivers Act" hereinafter referred to as "The Act", designating the North Fork American River as a part of the National Wild and Scenic Rivers System.

The portion of the North Fork American River designated as a component of the National Wild and Scenic Rivers System extends from a point 0.3 miles above Heath Springs at the north-south section line between Sections 15 and 16, T.16 N., R.14 E., Mt. Diablo Meridian (M.D.M) downstream to a point approximately 1000 feet upstream of the Colfax-Iowa Hill Bridge, including the Gold Run Addition Area, a total distance of 38.3 miles.

The Forest Service and Bureau of Land Management presently share in the responsibility for administering the North Fork American Wild and Scenic River System. The State of California retains management responsibility for its lands (123 acres) within the designated river boundary; management of these lands will be coordinated through a Memorandum of Agreement. The administration of the North Fork American Wild and Scenic River is to be as agreed upon by the Secretaries of the Department of the Interior and Agriculture or as directedf by the President.

Classification of the river in the "Wild" class as designated in the Act is presented together with supporting management objectives and directives and development plans.

Boundary Description

The principal consideration for determination of the proposed boundary is the area seen from the river. Other considerations, such as special features, location of property lines, potential problem areas, and location of trails also influenced the location. The rationale for establishing a boundary varied depending on: (1) The presence or absence of private land, (2) topography, and (3) location of trail along river.

The lands within the river canyon have been surveyed by General Land Office; therefore, the proposed boundary is located on legal subdivisions or private land lines, with few exceptions. To minimize boundary irregularities, land units of 40 acres were usually considered. Except in cases of mineral surveys, the smallest land units considered were approximately 20 acres. Where private land was involved the proposed boundary was located so it could be surveyed if necessary; random lines were not used.

With the system described, not all of the land seen from this river is included within the boundary; conversely, some land not seen is included. The system led to the establishment of a proposed boundary which: (1) Includes land with the greatest potential for adversely affecting the character of the river, (2) averages less than 320 acres per river mile, (3) can be defined, and (4) is reasonable to survey where private land is involved.

Information concerning the North Fork American River may be obtained by writing or visiting the Office of the Forest Supervisor, Tahoe National Forest, Highway 49 and Coyote Street, Nevada City, CA 95959.

Classification

The North Fork American River is one of three forks which make up the American River System. The headwaters of all originate just west of the Sierra Nevada Crest. These rivers are a major tributary to the Sacramento River System. The total drainage area of the designated component is about 241 square miles. All of the designated area is located in Placer County, State of California.

Wild Segment

Class Definition. A wild river area is free of impoundments and generally inaccessible, except by trail, with watersheds or shorelines essentially primitive and waters unpolluted. It represents a vestige of primitive America.

Description. The entire designated section of river from a point 0.3 miles above Heath Springs at the Section line common to Sections 15 and 16, T.16 N., R.14E., M.D.M. downstream 38.3 miles to a point approximately 1000 feet above the Colfax-Iowa Hill Bridge, including the Gold Run Addition Area, has been designated by Congress as a Wild River.

Gold Run Addition.—This area is an extension of the river boundary to the north in the Canyon Creek, Indiana, Sheldon and Tommy Cain Ravine drainages. It includes 805 acres, south of Gold Run, which at one time was the southern portion of a California State Park proposal. While the acreage of this area is included in the river boundary, it is excepted from the acreage limitation mentioned above.

On the basis of the above consideration the river boundaries contain a total of 12,986 acres. With the 805-acre Gold Run Addition area excepted there is an average of about 318 acres per river mile.

Refer below for legal description of the boundary.

Wild River Classification—Boundary Description of the "North Fork American River"

The official boundary description is that boundary which is shown on a map titled "River Boundary Location" of the North Fork American Wild River which is on file and available in the offices of the Forest Supervisor, Tahoe National Forest, Nevada City, California and Regional Forester, Pacific Southwest Region, San Francisco, California. Said boundary is located in and through the following described areas:

California—Bureau of Land Management

Wild River Classification consisting of a portion of the lands lying on each side of the North Fork American River through the following townships:

T.15N., R.9E.
T.15N., R.10E.

All referred to the Mt. Diablo Meridian in Placer County, California, and more particularly described as follows:

T.15N., R.9E.
Section 36, NE¼, N½SE¼,E½SW¼NW¼, SE¼NW¼, E½NW¼SW¼, NE¼SW¼ & N½SE¼SW¼.

T.15N., R.10E.
Section 32, NW¼NW¼, Lot 2, N½ Lot 1, and N½NE¼NE¼;
Section 31, Lots 7, 8, 9, 10, 11, 12 and 13;
Section 30, Lots 1, 2 of S½, 6, 7, 8, 9, 10, 11, 12 and S½ Lot 4 SW¼;
Section 29, NE¼NE¼, Lots 4, 5, 9, 10, 11, 12 and S½ Lots, 6, 7 and 8;
Section 28, Lots 5, 7, 8, 9 and W½SW¼;
Section 22, W½ Lots 4 and 5;
Section 21, Lots 6, 7, 9, 10, 11, 12, 13, and 14, E½SE¼NW¼, N½SW¼ and that portion of Truro P.M. 3710 which would be included in extension of lots 6, 7, 11 and 12;
Section 20, E½SE¼;
Section 16, NE¼, Lots 1, 2, 3, 4 and that portion of M.S. 1215 that lies within Section 16;
Section 15, NE¼NE¼, Lots 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, M.S. L-4, M.S. 321 and those portions of M.S. 725 and M.S. 1215 which lie within Section 15;
Section 9, SW¼SE¼, Lots 3, 4, 5, 7, 8 and 9, M.S. 3470 and those portions of M.S. 173 and 1483 which lie within Section 9;
Section 10, Lots 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, M.S. 1482, and those portions of M.S. 173, M.S. 1483 and M.S. 725 which lie within Section 10;
Section 11, Lots 1, 2, 3, 4, 5, 7, 8, and 9, SW¼NW¼, and NW¼SE¼;
Section 12, Lot 3;
Section 1, Lot 1 of E½, N½SW¼, Lots 10, 11, 12, 13, 14, 15, M.S. 681 and that portion of M.S. C-9 which lies within Section 1;
Section 2, Losts 9 and 10.

California—Tahoe National Forest

Wild River Classification consisting of a portion of the lands lying on each side of the North Fork American River through the following townships:

T. 15N., R. 11E.
T. 15N., R. 12E.
T. 16N., R. 11E.
T. 16N., R. 12E.
T. 16N., R. 13E.
T. 16N., R. 14E.

All referred to the Mt. Diablo Meridian in Placer County, California, and more particularly described as follows:

T. 15N., R. 11E.
Section 6, Lots 6, 7, 8, N½11, 12, S½13, 14 of SW¼, 26, 27, 28, 29, Mineral Lot 37 of M.S. 379, Mineral Lot 38 of M.S. 399, that portion of M.S. 5950A that is located within Lots 27 and 28, and that portion of M.S. C-9 in Lot 14 of SW¼;
Section 5, Lots 15, 16, 17, 18, 19, 20, 21, 22, 23, 27, 28, and that portion of M.S. 5950A that is located within Section 5;
Section 4, Lots 1, 3, 23, 29, 30, 31, 32, 33, 34, 35, portion of Mineral Lot 42 of M.S. 1403A adjacent to Lot 3, the Blackhawk location of M.S. 3702 and the northerly portion of the Southern Cross location of M.S. 3700 adjacent to Lot 1;
Section 3, Lots 1, 25, 26, 27, 30, 31, 32, 33, and 35;
Section 2, Lots 4, 9, 10, 11, 12, 13, 14, 15, 16, 17, 23, 24, Mineral Lot 59 and M.S. 3284 and those portions of Mineral Lots 57 and 58 of M.S. 3284 that lie within Section 2;
Section 1, Lots 8 and 9.
T. 15N., R. 12E.
Section 3, Lots 1, 2, 3, and 4.
Section 4, Lots 1, 2, 3, 4, 5 and 6;
Section 5, Lots 1, 2, 3, 4, 5, 6, 7 and 8.
T. 16N., R. 11E.
Section 36, SE¼, E½SE¼ and SW¼SW¼.
T. 16N., R. 12E.
Section 25, S½S½;
Section 31, SE¼, E½SW¼ and Lot 3 and 4;
Section 32, S½S½;
Section 33, S½S½;
Section 34, SE¼NE¼, S½SW½ and SE¼;
Section 35, N½, and N½SW¼;
Section 36 N½NE¼, SW¼NE¼ and NW¼.
T. 16N., R. 13E.
Section 25, S½;
Section 26, S½;
Section 27, S½;
Section 28, SW¼NE¼, S½NW¼, SE¼ and N½SW¼;
Section 29, S½N½ and N½S½;
Section 30, S½NE¼, SE¼, E½SW¼ and Lots 3 and 4;
Section 31, NE¼NW¼ and Lot 1.
T. 16N., R. 14E.
Section 16, S½S½NE¼, SE¼ and S½SW¼;
Section 17, S½SE¼;
Section 20, N½NE¼ and W½;
Section 21, NW¼NE¼ and N½NW¼;
Section 29, N½NW¼ and SW¼NW¼;
Section 30, NE¼NE¼, S½NE¼, SE¼NW¼, N½SE¼, E½SW¼ and Lots 2, 3, and 4.

[FR Doc. 80-26881 Filed 9-3-80; 8:45 am]
BILLING CODE 3410-11-M

Modoc National Forest Grazing Advisory Board; Meeting

The Modoc National Forest Grazing Advisory Board will meet at 10:00, September 26, 1980, at the Ranger Station at Tulelake, California. The propose of the meeting will be to have an on-the-ground review of some projects that have been completed using range betterment funds.

The meeting will be open to the public. Persons wishing to attend or who would like further information should notify William E. Britton, Modoc National Forest Supervisor's Office, telephone (916) 233-3521. Written statements may be filed with the board before or after the meeting.

G. Lynn Sprague,
Forest Supervisor.
August 25, 1980.

[FR Doc. 80-27001 Filed 9-3-80; 8:45 am]
BILLING CODE 3410-11-M

North Kaibab Grazing Advisory Board; Meeting

The North Kaibab Grazing Advisory Board will meet at 1:00 p.m., Tuesday, October 21, 1980, at the Coconino County Building, Fredonia, Arizona.

The purpose of this meeting is:

1. Election of officers.
2. Adoption of bylaws.
3. Development of Allotment Management Plans.
4. Utilization of range betterment funds.

The meeting will be open to the public. Persons who wish to attend should notify: Forest Supervisor, Kaibab National Forest, 800 South 6th Street, Williams, Arizona 86046, Telephone: (602) 635-2681.

Those attending may express their views when recognized by the chairman.

Leonard A. Lindquist,
Forest Supervisor.
August 25, 1980.

[FR Doc. 80-27012 Filed 9-3-80; 8:45 am]
BILLING CODE 3410-11-M

Science and Education Administration

National Agricultural Research and Extension Users Advisory Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92-463, 86 Stat. 770-776) the Science and Education Administration announces the following meeting:

Name: National Agricultural Research and Extension Users Advisory Board.
Date: September 15-17, 1980.
Time: 8:00 a.m.-5:00 p.m.
Place: Fox Ridge Inn, Route 16, North Conway, New Hampshire.
Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.
Comments: Time will be made for non-member statements on September 16, or the public may file written comments before or after the meeting with the contact person below.
Purpose: The Board will be reviewing and discussing information on selected research and extension programs in preparation for developing its October report to the Secretary regarding recommendations as to allocations of funding and responsibilities of agricultural research and extension.
Contact Person for Agenda and More Information: Dr. James M. Meyers, Executive Secretary of the Users Advisory Board; Science and Education Administration; U.S. Department of Agriculture; Washington, D.C. 20250; telephone 202-447-3684.

Done at Washington, D.C., this 21st day of August 1980.

John Stovall,
Acting Executive Director, National Agricultural Research and Extension Users Advisory Board.

[FR Doc. 26872 Filed 9-3-80; 8:45 am]
BILLING CODE 3410-03-M

CIVIL AERONAUTICS BOARD

[Dockets Nos. 33362, 38175, and 38176]

Former Large Irregular Air Service Investigation; Applications of Flight Transportation Corp.; Hearing

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on September 17, 1980, at 10:00 a.m. (local time) in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., August 27, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 80-27061 Filed 9-3-80; 8:45 am]
BILLING CODE 6320-01-M

[Docket 38185]

Lone Star Airways, Inc., Fitness Investigation; Postponement of Hearing

Notice is hereby given that the hearing in the above-entitled proceeding now assigned to be held on September 3, 1980, (45 FR 52854, August 8, 1980) is hereby postponed to September 24, 1980 at 10:00 a.m. (local time) in Room 1003, Hearing Room B, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C.

Dated at Washington, D.C., August 27, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80-27062 Filed 9-3-80; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Alaska Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Alaska Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 11:30 a.m., on September 22, 1980, at the Federal Building, 709 W. 9th Street, Room 949, Juneau, Alaska. The purpose of this meeting is to release a report on Employment of Women and Minorities in State Government—Changing Commitment into Action.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Richard J. Stitt, Sealaska Plaza, Suite 400, Juneau, Alaska 99801, (907) 586–1512 or the Northwestern Regional Office, 915 Second Avenue, Room 2852, Seattle, Washington 98174, (206) 442–1246.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 29, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-27027 Filed 9-3-80; 8:45 am]

BILLING CODE 6335-01-M

Kansas Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Kansas Advisory Committee to the Commission will convene at 9:30 a.m. and will end at 2:00 p.m., on September 27, 1980, at the Travelodge Motel, 2061 W. Hi-Way 50, Emporia, Kansas 66801.

The purpose of this meeting is to discuss program planning for FY 1981.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Benjamin H. Day, 313 Prospect, Leavenworth, Kansas 66048, (913) 296–3469 or the Central States Regional Office, Old Federal Office Building, Room 3103, 911 Walnut Street, Kansas City, Missouri 64106, (816) 374–5253.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 29, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-27028 Filed 9-3-80; 8:45 am]

BILLING CODE 6335-01-M

Louisiana Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U. S. Commission on Civil Rights, that a meeting of the Louisiana Advisory Committee will convene at 10:00 a.m. and will end at 2:00 p.m., on September 27, 1980, at the Howard Johnson Motor Lodge, 330 Loyola Avenue, New Orleans, Louisiana 70112. The purpose of this meeting is discussion of future projects on voting rights.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dr. Jewell L. Prestage, Box 9222, Southern Branch, P. O., Baton Rouge, Louisiana 70813, (504) 771–3210 or the Southwestern Regional Office, Heritage Plaza, 418 South Main, San Antonio, Texas 78204, (512) 229–5570.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. August 29, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-27025 Filed 9-3-80; 8:45 am]

BILLING CODE 6335-01-M

Maine Advisory Committee; Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the Maine Advisory Committee (SAC) of the Commission originally scheduled for September 9, 1980, at Augusta, Maine, (FR Doc. 80–24954 on page 54788) has been changed.

The meeting now will be held on September 17, 1980, beginning at 6:00 p.m. and will end at 9:00 p.m., at the Maine Teachers Association, Augusta Civic Center, Augusta, Maine.

Dated at Washington, D.C., August 29, 1980.

Thomas L. Neumann,

Advisory Committtee Management Officer.

[FR Doc. 80-27024 Filed 9-3-80; 8:45 am]

BILLING CODE 6335-01-M

New Mexico Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Mexico Advisory Committee to the Commission will convene at 2:00 p.m. and will end at 5:00 p.m., on September 26, 1980, at the Airport Marina Hotel, 2910 Yale Boulevard, Albuquerque, New Mexico 87119. The purpose of this meeting is to discuss plans for the Energy Impact Hearing in New Mexico.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Hon. Roberto A. Mondragon, Lt. Governor's Office, State Capitol, Room 425, Santa Fe, New Mexico 87503, (505) 827–2513 or the Southwestern Regional Office, Heritage Plaza, 418 South Main, San Antonio, Texas 78204, (512) 229–5570.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 29, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-27026 Filed 9-3-80; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 163]

Resolution and Order Approving the Application of the Lincoln Foreign Trade Zone, Inc., for a Foreign-Trade Zone and a Special-Purpose Subzone in Lincoln, Nebr.

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u),

the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Lincoln Foreign Trade Zone, Inc., Lincoln, Nebraska, filed with the Foreign-Trade Zones Board on December 6, 1979, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone to be located at the Lincoln Airpark West industrial park and a special-purpose subzone to be established at the manufacturing plant of Kawasaki Motors Corp., U.S.A. (KMC), 5600 NW 27th Street, Lincoln, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal includes industrial park and open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone or subzone sites other than that which is set out in the application. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant To Establish, Operate, and Maintain a Foreign-Trade Zone and a Special-Purpose Subzone in Lincoln, Nebr.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), for Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Lincoln Foreign Trade Zone, Inc. (the Grantee) has made application (filed December 6, 1979) in due and proper form to the Board, requesting the establishment, operation and maintenance of a general-purpose foreign-trade zone and a special-purpose subzone at the Kawasaki assembly plant, both sites being in Lincoln, Nebraska, and adjacent to the Omaha Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's Regulations (15 CFR Part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone and a special-purpose subzone, designated on the records of the Board as Zone No. 59 and Subzone No. 59A, at the locations mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, said grant being subject to the provisions, conditions, and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth therein and also to the following express conditions and limitations:

Operation of the foreign-trade zone and special-purpose subzone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the zone and subzone sites in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone or subzone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone or subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 27th day of August 1980, pursuant to Order of the Board.

Foreign-Trade Zones Board

Philip M. Klutznick,

Chairman and Executive Officer.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 80-26949 Filed 9-3-80; 8:45 am]

BILLING CODE 3510-25-M

National Technical Information Service

U.S. Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly, foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of patents cited are available from the Commissioner of Patents & Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia, 22161 for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to avoid premature disclosure. Claims and other technical data will usually be made available to serious prospective licensees upon execution of a non-disclosure agreement.

Requests for information on the licensing of particular inventions should be directed to the addresses cited for the agency-sponsors.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

U.S. Department of the Air Force AF/JACP, 1900 Half Street, S.W., Washington, DC 20324.

Patent application 6-133,767: Aircraft Self-Sealingfuel Tank and Method of Fabricating; filed March 25, 1980.

Patent application 6-133,769: All-Flexure Linear Isolation/Suspension System; filed March 25, 1980.

Patent 4,199,175: Ribbed Flange Modified Seal; filed April 28, 1978; patented April 22, 1980; not available NTIS.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, VA 22217.

Patent application 6-015,675: Fluidic Controlled Diffusers for Turbopumps; filed February 27, 1979.

Patent application 6-095,866: Nitrile Rubber Adhesion; filed November 19, 1979.

Patent application 6-101,292: Teletype Loop Switching Matrix; filed December 7, 1979.

Patent application 6-117,323: Universal Firing Device; filed January 31, 1979.

Patent application 6-117,702: Two Stage Parachute Fuze Recovery System; filed February 1, 1980.

Patent application 6-117,708: An Improved Self-Powered Vehicle Detection System; filed February 1, 1980.

Patent application 6-121,948: Transmissive and Reflective Liquid Crystal Display; filed February 15, 1980.

Patent application 6-122,388: Cooling Apparatus for Electronic Modules; filed February 19, 1980.

Patent application 6-126,269: The Recrystallization of Hexanitrostilbene from Nitric Acid and Water; filed March 3, 1980.

Patent application 6-129,061: Sulfur Dioxide Detector; filed March 10, 1980.

Patent application 6-135,392: Fill Machine; filed March 31, 1980.

Patent application 6-136,858: Blocking Feed through for Coaxial Cable; filed April 3, 1980.

Patent application 6-137,026: Coupling for Quick Attachment to Plate-Lake Structure; filed April 3, 1980.

Patent application 6-137,177: Multi-Mode Microwave Lens Antenna, filed April 4, 1980.

Patent application 6-137,681: Submarine Rescue Cable Reel; filed April 7, 1980.

Patent application 6-138,640: Improved Chirp Filters/Signals; filed April 9, 1980.

Patent application 6-138,950: Fiber Optic Sensors, filed April 9, 1980.

Patent application 6-139,315: Fiber Optic Light Valve, filed April 11, 1980.

Patent 4,169,257: Controlling the Directivity of a Circular Array of Acoustic Sensors; filed April 28, 1978; patented September 25, 1979, not available NTIS.

Patent 4,170,904: Single-Axis Disturbance Compensation System; filed December 12, 1977; patented October 16, 1979; not available NTIS.

Patent 4,183,316: Variable Volume Depth Control; filed December 5, 1977; patented January 15, 1980; not available NTIS.

Patent 4,184,078: Pulsed X-Ray Lithography; filed August 15, 1978; patented January 15, 1980; not available NTIS.

Patent 4,185,552: Mine Firing Control System; filed May 16, 1945; patented January 29, 1980; not available NTIS.

Patent 4,185,556: Mine Firing System; filed June 6, 1945; patented January 29, 1980; not available NTIS.

Patent 4,185,881: Underwater Cable Cutting Device; filed December 6, 1951; patented January 29, 1980; not available NTIS.

Patent 4,187,290: Carrier and Dispersal Mechanism for a Microorganic Larvicide; filed April 18, 1979; patented February 5, 1980; not available NTIS.

Patent 4,187,549: Double Precision Residue Combiners/Coders; filed September 5, 1978; patented February 5, 1980; not available NTIS.

Patent 4,187,779: Marine Mine; filed April 19, 1945; patented February 12, 1980; not available NTIS.

Patent 4,189,999: Vector Acoustic Mine Mechanism; filed March 5, 1956; patented February 26, 1980; not available NTIS.

Patent 4,190,701: V_3Ga Composite Superconductor; filed April 6, 1979; patented February 26, 1980; not available NTIS.

Patent 4,191,028: Dry Ice, Liquid Pulse Pump Cooling System; filed June 22, 1978; patented March 4, 1980; not available NTIS.

Patent 4,192,573: Variable Power Attenuator for Light Beams; filed October 13, 1978; patented March 11, 1980; not available NTIS.

Patent 4,193,072: Combination Infrared Radio Fuze; filed March 13, 1962; patented March 11, 1980; not available NTIS.

Patent 4,193,088: Optical Heterodyne System for Imaging in a Dynamic Diffusive Medium; filed August 2, 1978; patented March 11, 1980; not available NTIS.

Patent 4,193,130: Fiber Optic Hydrophone for Use as an Underwater Electroacoustic Standard; filed September 7, 1978; patented March 11, 1980; not available NTIS.

Patent 4,194,150: Method and Apparatus for Reducing Magnetometer Errors; filed September 26, 1958; patented March 18, 1980; not available NTIS.

Patent 4,194,244: Angle Sensing System; filed August 17, 1978; patented March 18, 1980; not available NTIS.

Patent 4,195,166: Alkanediamide-Linked Polyphthalocyanines Coordinated with $SnCl_2$; filed October 23, 1978; patented March 25, 1980; not available NTIS.

Patent 4,195,280:Tuned Electrolytic Detector; filed May 5, 1955; patented March 25, 1980; not available NTIS.

Patent 4,195,361: Variable Frequency Acoustic Filter; filed April 27, 1956; patented March 25, 1980; not available NTIS.

Patent 4,195,798: Universal Tow Target Adapter; filed September 15, 1978; patented April 1, 1980; not available NTIS.

Patent 4,196,401: Method and apparatus for Injecting Gas into a Laser Cavity; filed April 17, 1978; patented April 1, 1980; not available NTIS.

Patent 4,196,876: Banner Towing Adapter; filed July 18, 1978; patented April 8, 1980; not available NTIS.

Patent 4,197,507: Suppressing Pulse Synthesizer; filed April 7, 1978; patented April 8, 1980; not available NTIS.

Patent 4,197,544: Windowed Dual Ground Plane Microstrip Antennas; filed September 28, 1977; patented April 8, 1980; not available NTIS.

Patent 4,198,703: Submarine Simulating Sonar Beacon; filed May 12, 1960; patented April 15, 1980; not available NTIS.

Patent 4,199,006: Pneumatic Valve; filed February 28, 1978; patented April 22, 1980; not available NTIS.

Patent 4,201,952: Gas Laser Aerodynamic Window; filed April 11, 1978; patented May 6, 1980; not available NTIS.

National Aeronautics and Space Administration, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, DC 20546.

Patent application 6-100,611: Mechanical End Joint System for Structural Column Elements; filed December 5, 1979.

Patent application 6-135,039: An Image Readout Device with Electrically Variable Spatial Resolution; filed March 28, 1980.

Patent application 6-135,040: Wind Tunnel Supplementary Mach Number Minimum Section Insert; filed March 28, 1980.

Patent application 6-135,057: Decoupler Pylon: Wing/Store Flutter Suppressor; filed March 28, 1980.

Patent application 6-136,660: Method for Making Patterns for Resin Matrix Composites; filed April 2, 1980.

Patent application 6-138,944: Open Ended Ratchet Type Tubing Cutter; filed April 9, 1980.

Patent 4,192,290: combined Solar Collector and Energy Storage System; filed April 28, 1978; patented March 11, 1980; not available NTIS.

U.S. Department of Health and Human Services, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, MD 20205.

Patent application 6-141,676: Microtome with Refrigerant Container for Cooling Paraffin Blocks During Sectioning; filed April 18, 1980.

Patent application 6-129,982: Steel Wire Pressure Aesthesiometer; filed March 11, 1980.

[FR Doc. 80-27002 Filed 9-3-80; 8:45 am]
BILLING CODE 3510-04-M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council, Its Scientific and Statistical Committee, Its Groundfish Subpanel and Its Pink Shrimp Subpanel; Public Meeting With Partially Closed Session

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Pacific Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and the Council has established a Scientific and Statistical Committee, a Groundfish Subpanel and a Pink Shrimp Subpanel to assist the Council in carrying outs its responsibilities.

DATES: October 7-9, 1980.

ADDRESS: The meetings will take place at the Sheraton-Renton Inn, 800 Rainier Avenue South, Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221-6352.

Meeting Agendas follow:

Scientific and Statistical Committee (SSC)—(Open meetings; Cedar/Spruce Room) October 7-8, 1980 (1 p.m. to 5 p.m. on October 7; 8 a.m. to 5 p.m. on October 8).

Agenda: Discuss Groundfish and Shrimp Fishery Management Plans (FMP's) under development, conduct a public comment period beginning at 3:30 p.m. on October 7, and conduct other Committee business.

Groundfish Subpanel—(open meeting; Pine/Tamarack Room) October 7-8, 1980 (1 p.m. to 5 p.m. on October 7; 8 a.m. to 5 p.m. on October 8).

Agenda: Consideration of options for adoption in the Groundfish FMP.

Pink Shrimp Subpanel—(open meeting; Oak Room) October 7-8, 1980 (1 p.m. to 5 p.m. on October 7; 8 a.m. to 5 p.m. on October 8).

Agenda: Consideration of options for adoption in the Pink Shrimp FMP.

Council—(open meeting; Evergreen Ballroom) October 8–9, 1980 (1 p.m. to 5 p.m. on October 8; 8 a.m. to 5 p.m. on October 9).

Agenda: Open Session—Discuss matters pertaining to the Groundfish, Pink Shrimp and Billfish FMP's, conduct other fishery management business and conduct a public comment period beginning at 4 p.m. on October 8.

Council—(closed meeting) October 8 (9 a.m. to 11 a.m.)

Agenda: Closed Session—Discuss the status of current maritime boundary and resource negotiations between the U.S. and Canada and discuss personnel matters concerning reappointments to the Salmon Subpanel and the SSC. Only those Council, SSC members, and related staff having security clearances will be allowed to attend this closed session.

The Assistant Secretary for Administration of the Department of Commerce with the concurrence of its General Counsel, formally determined on July 21, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(1), as specifically authorized under criteria established by an executive order to be kept secret in the interests of national defense or foreign policy; as information which is properly classified pursuant to Executive Order and (6) as information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. (A copy of the determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Department of Commerce.) All other portions of the meeting will be open to the public.

Dated: August 29, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-27146 Filed 9-3-80; 8:45 am]
BILLING CODE 3510-22-M

Office of the Secretary

National Voluntary Laboratory Accreditation Program; Public Hearing

AGENCY: Assistant Secretary for Productivity, Technology, and Innovation, Commerce.

ACTION: Notice of public hearing on the preliminary finding of need to accredit laboratories that provide electromagnetic calibration services.

SUMMARY: The Department of Commerce hereby announces that it will hold an informal public hearing on September 25, 1980 to provide interested parties an opportunity to express their views and concerns regarding the preliminary finding of need to accredit laboratories that provide electromagnetic calibration services published by the Department in the Federal Register on August 6, 1980 (45 FR 52326–52329).

DATES: The hearing will be held on September 25, 1980. Requests to testify including intended statements should be filed by September 23, 1980.

ADDRESSES: The informal public hearing will be held on Thursday, September 25, 1980, beginning at 1:30 p.m., Eastern Daylight Saving Time (EDST), in the Green Auditorium, Administration Building, National Bureau of Standards, Gaithersburg, MD.

Persons desiring to testify at this hearing should submit to the Deputy Assistant Secretary for Product Standards Policy (Room 3876, U.S. Department of Commerce, Washington, D.C. 20230) four copies of the statement they wish to make at the hearing, not later than Tuesday, 5:00 p.m., EDST, September 23, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards Policy, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377–3221; or Mr. John W. Locke, Office of Product Standards Policy, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377–2054.

SUPPLEMENTARY INFORMATION: On August 6, 1980, the Department of Commerce published in the Federal Register a preliminary finding of need to accredit laboratories that provide electromagnetic calibration services (45 FR 52326–52329). That notice established a 60-day comment period and indicated that written comments were due on or before October 6, 1980. That notice also established a 15-day period for making a request for an informal public hearing before August 21, 1980. Such a request was received from Loebe Julie, President of the Julie Research Laboratories, Inc. in a letter dated August 19, 1980. Mr. Julie has advised the Department that he intends to testify at this hearing on the need for a broader laboratory accreditation program to include calibration services in other areas besides the electromagnetic area. The Department, in response to this request, has decided to hold an informal public hearing for the purpose of giving Mr. Julie and any other interested parties an opportunity to comment on the preliminary finding of need.

The following procedures are established for the informal hearing:

1. *Purpose.* The purpose of the informal public hearing is to provide all interested persons with an opportunity to express their views and concerns regarding the preliminary finding of need to accredit laboratories that provide electromagnetic calibration services.

2. *Conduct of Hearing.* (a) This hearing will be an informal non-adversary proceeding at which there will be no formal pleadings, adverse parties or cross examination. Witnesses should submit a written statement of their presentation for the record as indicated above.

(b) The presiding officer shall have the right to schedule the witnesses, to apportion in an equitable manner the time available to each witness for making presentations, and to terminate or shorten the presentation of any witness when, in his opinion, such presentation is repetitive of information previously presented or not relevant to the purpose of the hearing.

(c) The presiding officer shall have the authority to continue the hearing on September 26, 1980 if it appears that the scheduled witnesses cannot complete their testimony on September 25, 1980.

(d) The presiding officer and other members of the Department of Commerce hearing panel shall have the right to question witnesses on their statements and other matters related to the preliminary finding of need.

(e) The presiding officer shall have the right to exercise such authority as may be necessary to insure the equitable and efficient conduct of the hearing and to maintain order.

3. *General Provisions.* (a) This informal hearing shall be open to members of the public whether or not such members wish to testify at the hearing.

(b) A written transcript of the hearing will be made. A copy of the transcript will be available for inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, 14th Street between E Street and Constitution Avenue, NW., Washington, D.C. 20230. Copies of the transcript of the hearing will also be available for purchase directly from the commercial reporting service responsible for providing the transcript to the Department. Information concerning the availability

of the transcript will be announced at the hearing.

(c) Copies of all written materials and comments on the preliminary finding will be made available for inspection and copying in the Central Reference and Records Inspection Facility identified above.

Dated: August 29, 1980.

Francis W. Wolek,

Acting Assistant Secretary for Productivity, Technology, and Innovation.

[FR Doc. 80-27107 Filed 9-3-80; 8:45 am]
BILLING CODE 3510-13-M

[Dept. Organization Order 35-2B]

Bureau of the Census; Statement of Organization and Function, and Delegations of Authority

This order effective August 4, 1980 supersedes the materials appearing at 44 FR 40659 of July 12, 1979 and 45 FR 12471 of February 26, 1980.

Section 1. Purpose

.01 This Order prescribes the organization and assignment of functions within the Bureau of the Census (the "Bureau").

.02 This revision covers the following changes in organization and assignment of functions within the Bureau: rewrites the functions of the Administrative Services Division (paragraph 4.a.); deletes reference that the Assistant Director for Demographic Fields (paragraph 5.02) will head the Decennial Census Division; establishes a Center for Economic Studies (subparagraph 6.01f.); rewrites the functions of the Associate Director for Statistical Standards and Methodology (Section 7.); retitles the Center for Human Factors Research as the Center for Social Science Research (paragraph 7.a.); abolishes the Research Center for Measurement Methods; rewrites the functions of the Statistical Research Division (paragraph 7b.); changes the title of the International Statistical Assistance and Training Center (paragraph 10.b.) to the International Statistical Programs Center; and incorporate the outstanding amendment.

Section 2. Organization Structure

The principal organization structure and lines of authority shall be as depicted in the attached organization chart (Exhibit 1). A copy of the organization chart is on file with the original of this document in the Office of the Federal Register.

Section 3. Office of the Director

.01 The *Director* determines policies and directs the programs of the Bureau, taking into account applicable legislative requirements and the needs of users of statistical information. The Director is responsible for the conduct of the activities of the Bureau and for coordinating its statistical programs and activities with those of other Federal statistical agencies with due recognition of the programs developed and regulations issued by the Office of Federal Statistical Policy and Standards of the Department of Commerce and by the Office of Management and Budget.

.02 The *Deputy Director* assists the Director in the direction of the Bureau and performs the functions of the Director in the latter's absence.

.03 *Staff Elements.*

a. The *Data User Services Division,* shall plan, coordinate, and administer a comprehensive data dissemination and user services program to help users identify, acquire, understand, and use Bureau products and services; conduct seminars, workshops, and conferences; prepare user aids and reference materials; promote Bureau products and services; prepare statistical compendia such as the *Statistical Abstract of the United States* and its supplements; design and develop special tabulations and distributable computer programs; serve as the focal point for the coordination of requests for data tapes, published and unpublished data, and maps; research users' needs of statistical products; coordinate the Bureau's regional user services program; and carry out cooperative data dissemination and user services programs with State and local governments and other organizations.

b. The *Program and Policy Development Office* shall assist in the overall planning, review, and evaluation of Bureau programs. The Office shall, in consultation with the Director, develop overall program plans for the Bureau; review and evaluate program accomplishments in relation to plans; and serve as the focal point for determining and assessing goals and long-range policy and resource planning for the Bureau as a whole. It shall advise on all congressional matters related to the Bureau's activities and serve as the primary point of coordination for maintaining liaison on such activities with the Congress in collaboration with the Departmental Office of Congressional Affairs.

c. The *Public Information Office* shall, under the policy guidance of the Director of the Bureau and in liaison with the Departmental Office of Public Affairs (as provided by DOO 15-3), develop public information programs and coordinate and review for clearance the release and distribution of information disseminated by the Bureau.

d. The *1980 Census Promotional Office* shall plan, develop, coordinate, and administer a comprehensive national informational and educational program to encourage and foster support of the 1980 Decennial Census of Population and Housing by the public, private interests, and government entities; prepare and disseminate informational and instructional materials for use by public information and communications media; plan and carry out programs to obtain the support of national and local organizations and associations, especially those representing selected minorities and women; and coordinate a program of promotional support to draw the public's attention to the importance of the census.

Section 4. Office of the Associate Director for Administration

The *Associate Director for Administration* shall provide administrative management services to all components of the Bureau; advise the Director in these fields; and shall have and direct the following units:

a. The *Administrative Services Division* shall provide administrative services to include property, space and facilities management, procurement control, library, communications, records disposition, files, mail, and forms management, and related administrative operations.

b. The *Budget Division* shall perform budget functions, which shall include preparation of official budget estimates and justifications and allocation and control of all funds.

c. The *Finance Division* shall perform financial analyses, maintain financial accounts, coordinate payroll and leave audits, and prepare financial reports.

d. The *Organization and Management Systems Division* shall conduct studies and perform related activities concerned with improving organization structure and management practices; design and develop administrative and management systems; provide technical support for work measurement program; perform directives and reports management functions; carry out the staff responsibility for the Bureau committee management function; prepare special analytical reports on management matters; develop and implement an information system; provide ongoing information systems maintenance and upgrading; provide computer programming services for the processing of administrative and management data; and support management in planning

and controlling its programs and projects.

e. The *Personnel Division* shall provide personnel management services, which shall include position classification and pay administration, recruitment and employment, employee training, employee relations and services, labor relations, and related personnel operations. The Division shall also provide assurance of equal opportunity in all employment matters in the Bureau.

f. The *Publications Services Division* shall provide publication, printing, and graphic art services, including publications design and distribution planning and control.

g. The *Equal Employment Opportunity Officer,* designated under the provisions of subparagraph 3.02b. of Department Organization Order 10–5 "Assistant Secretary for Administration," shall report and be responsible to the Associate Director; shall provide guidance and assistance to Bureau officials in Equal Employment Opportunity matters, shall perform the duties and activities prescribed by subparagraph 2.01e.3. of Department Administrative Order 202–713 "Equal Employment Opportunity"; and shall participate in the planning and direction of the Equal Employment Opportunity program.

Section 5. Office of the Associate Director for Demographic Fields

.01 The *Associate Director for Demographic Fields* shall plan and direct the social and demographic statistical programs and advise the Director in these fields; and shall have and direct the following units:

a. The *Demographic Surveys Division* shall plan and develop specifications, survey design, and methodology for, and provide technical direction over, the development of statistical data collection in current and special surveys; plan and develop systems and prepare computer programs for the processing of applicable data on electronic data processing equipment; perform nonmechanical processing for specified current and special surveys; and conduct surveys and methodology studies for other agencies.

b. The *Housing Division* shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from censuses and from special and current surveys relating to general housing characteristics; and conduct research for and prepare analytical reports, monographs, and special studies.

c. The *Center for Demographic Studies* shall plan and develop analyses of and publish social and socioeconomic data; prepare articles, position papers, and detailed analytic reports related to current policy issues; develop measures of social well-being and publish social indicator reports; develop and publish a quarterly journal on social, socioeconomic, and demographic trends; conduct research on possible data gaps and develop recommendations to fill these needs; and conduct research on new analytic techniques.

d. The *Population Division* shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from special and current surveys and censuses; prepare estimates and projections of the population; plan and develop systems and prepare computer programs for the processing of population data on electronic data processing equipment; conduct special studies and publish analytical reports and monographs.

e. The *Statistical Methods Division* shall develop and coordinate the application of mathematical statistical techniques in the design and conduct of statistical programs in the demographic fields.

.02 The *Assistant Director for Demographic Censuses* shall assist the Associate Director for Demographic Fields; and shall direct and provide planning and coordination for the demographic censuses; and direct the following units:

a. The *Decennial Census Division* shall provide overall direction for program planning of the 1980 Decennial Census; develop overall budget requirements and time schedules; maintain liaison with other divisions for data needs and associated information and materials; develop plans for publication and other data dissemination programs; develop census methodology, including processing specifications, instructions and controls, and computer programming; and organize and conduct pretest research programs.

b. The *Mid-decade Census Staff* shall provide for research on population and housing data needs of the Federal, State and local governments and other public and private agencies; develop and review methodological alternatives; and develop overall plans required for an effective and efficient mid-decade census including the impact the mid-decade census shall have on demographic data collection activities otherwise planned for the 1980's, and how the demographic census data needs for the decade should be distributed between the decennial and mid-decade censuses.

Section 6. Office of the Associate Director for Economic Fields

.01 The *Associate Director for Economic Fields* shall plan and direct the economic statistical programs and advise the Director in these fields; and shall have and direct the following units:

a. The *Business Division* shall formulate overall plans and programs for the collection, processing, and dissemination of statistical data from special and current surveys and censuses relating to business enterprises engaged primarily in the distribution of goods and services; plan and develop systems and prepare computer programs for the processing of business data on electronic data processing equipment; perform nonmechanical processing for current Division programs; and conduct research and prepare analytical reports, monographs, and special studies.

b. The *Construction Statistics Division* shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from current surveys and studies relating to construction activity and from construction industry censuses and surveys relating to the characteristics and operations of firms in the construction industry; plan and develop systems and prepare computer programs for the processing of construction data on electronic data processing equipment; perform nonmechanical processing for current Division programs; and conduct research and prepare analytical reports, monographs, and special studies.

c. The *Foreign Trade Division* shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data relating to various aspects of the export and import trade of the United States and foreign trade shipping; plan and develop systems and prepare computer programs for the processing of foreign trade data on electronic data processing equipment; perform nonmechanical processing for current Division programs; conduct research on programs of international comparability of trade statistics; and prepare reports, monographs, and special studies.

d. The *Governments Division* shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from special and current surveys and censuses relating to State and local governments; plan and develop systems and prepare computer programs for the processing of government data on

electronic data processing equipment; conduct research on governmental operations and finances; and prepare analytical reports, monographs, and special studies.

e. The *Industry Division* shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from special and current surveys and censuses relating to manufacturing, mining, and related industries; plan and develop systems and prepare computer programs for the processing of industry data on electronic data processing equipment; and conduct research and prepare analytical reports, monographs, and special studies.

f. The *Center for Economic Studies* shall plan, develop, and publish analyses of the Bureau's economic surveys directed at improving the usefulness and validity of the data; develop and prepare studies of trends and relationships in the Bureau's economic reports and in series from other sources; prepare special analytical and interpretive reports and monographs of a specialized nature, dealing with the data being published to enable the Bureau to disseminate information that more extensively uses the large body of economic microdata at its disposal.

.02 The *Assistant Director for Economic and Agriculture Censuses* shall assist the Associate Director for Economic Fields; and shall direct and provide planning and coordination for the following units:

a. The *Agriculture Division* shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from special and current surveys and censuses relating to agriculture, agricultural activities, and products, equipment and facilities, irrigation and drainage enterprises, and cotton ginning; plan and develop systems and prepare computer programs for the processing of agricultural data on electronic data processing equipment; and conduct research and prepare analytical reports, monographs, and special studies.

b. The *Economic Census Staff* shall provide overall direction for program planning of the economic censuses; develop overall budget requirements and time schedules; maintain liaison with other divisions for data needs and associated information and materials; develop plans for publication and other data dissemination programs; develop census methodology including processing procedures, instructions and controls and computer programming; and organize and conduct pretest research programs.

c. The *Economic Surveys Division* shall plan and develop specifications, survey design, and methodology for, and provide technical direction over, the processing of statistical data collection in assigned current and special surveys relating to firms engaged in a variety of economic activities; develop classification manuals and systems for the coding and identification of industries and commodities for use in the Bureau's statistical programs; conduct research into the application and use of administrative records, including development of a current industrial directory; plan and develop systems and prepare computer programs for the processing of economic data on electronic data processing equipment; and develop overall plans and programs for the collection, processing, and dissemination of statistical data from surveys or censuses relating to the transportation industry.

Section 7. Office of the Associate Director for Statistical Standards and Methodology

The *Associate Director for Statistical Standards and Methodology* shall plan and direct programs relating to the statistical adequacy of proposed collections and the application of appropriate statistical methodology and techniques; carry out long-range studies on the basic problems of measurement of social and economic phenomena; provide research and consulting facilities oriented specifically toward psychological and behavioral science factors, and advise the Director in these fields and shall have and direct the following unit:

a. The *Center for Social Science Research* shall provide the Bureau with research and consulting facility oriented specifically to social science factors which affect respondent cooperation, the quality of data obtained, and the efficiency of Bureau data collection activities.

b. The *Statistical Research Division* shall develop and promote effective use of mathematical, statistical, and psychological methods and techniques in the work of the Bureau; conduct research in these areas; carry out long-range studies on the basic problems of measurement of social and economic phenomena; provide guidance to theoretical and applied statisticians and subject-matter specialists in the Bureau and other organizations on all aspects of mathematical, statistical, and research problems.

Section 8. Office of the Associate Director for Information Technology

.01 The *Associate Director for Information Technology* shall plan and direct programs for communicating and processing information, and advise the Director in these matters. The Associate Director shall have and direct the following units:

a. The *Technical Services Division* shall plan and perform engineering services, including research, development and maintenance, to provide and support electromechanical and electronic equipment required for automated document handling and data capture; and provide for a developmental program for devising solutions to data communications problems.

b. The *Systems Development Division* shall plan for and develop general purpose applications of new technology to the solution of Bureau problems; research new programming languages and techniques; and conduct research and development concerned with requirements for new technology and future systems designs for the various programs of the Bureau.

.02 The *Assistant Director for Computer Services* shall assist the Associate Director for Information Technology; shall direct and provide planning and coordination for the computer services area; and shall have and direct the following units:

a. The *Computer Operations Division* shall operate and manage the electronic digital computers and related ancillary equipment of the Bureau; plan and perform associated coordination for data keying, scheduling of computer processing, staging, and tape library services; and provide user services such as ADP training, documentation, source program optimization, programming, methodologies, and standards to facilitate the use of the Bureau's ADP resources.

b. The *Systems Support Division* shall plan for and provide the activities required to maintain the Bureau's computers, communication facilities, and ancillary hardware at required levels of operating effectiveness; and develop, modify, and maintain operational support software at performance levels necessary to meet mission objectives.

Section 9. Office of the Associate Director for Field Operations

The *Associate Director for Field Operations* shall direct programs of field data collection and precomputer processing operations, and advise the

Director in these fields; and shall have and direct the following units:

a. The *Data Preparation Division* located in Jeffersonville, Indiana, shall carry out precomputer statistical processing operations for assigned current ans special surveys or censuses; provide related administrative and logistics services for assigned programs; exercise such authority in personnel and other management areas as is specifically delegated; and administer through its Pittsburg, Kansas branch, a personal census service to furnish information about individuals as reflected by census records, as provided by law.

b. The *Decennial Processing Staff* shall plan, organize, coordinate, and direct the decentralized processing of the 1980 Decennial Census of Population and Housing; plan, develop, implement, and coordinate, with the Decennial Census Division, manual and precomputer processing procedures, schedules and control systems; and coordinate with administrative divisions in the development and implementation of procedures/systems to meet administrative requirements.

c. The *Field Division* shall plan, organize, coordinate, and carry out the Bureau's field data collection program; maintain and administer a flexible field organization through the regional offices and temporary district and other branch or area offices; and provide for the effective deployment of field personnel to assure the efficient conduct of data collection at the local level.

d. The *Geography Division* shall plan, coordinate, and administer those geographic services needed to facilitate the Bureau's data collection program; develop computer programs, systems, methods, and procedures for the cartographic and geographic operations; develop and implement a nationwide program to maintain and update geographic base files; conduct research into geographic concepts and methods; develop plans for the establishment of geographic statistical areas of the United States; and prepare density and other specialized maps and geographic reports for publication.

Section 10. Office of the Assistant Director for International Programs

The Assistant Director for International Programs shall plan and direct the international statistical program activities of the Bureau; advise the Deputy Director in these activities; and shall have and direct the following units:

a. The *International Demographic Data Center* shall develop and maintain a comprehensive demographic (and socioeconomic) data base for all countries of the world; provide users with demographic data which have been evaluated and adjusted for inaccuracies and inconsistencies; prepare estimates and projections of population and selected socioeconomic characteristics for countries and regions and the world; and prepare Country Demographic Profiles detailing fertility, mortality, and population changes.

b. The *International Statistical Programs Center* shall train foreign technicians in censuses, surveys, and other statistical methods, especially relating to large-scale data collection; provide onsite statistical assistance of a varied nature to developing countries; provide, at the request of the Agency for International Development and of countries participating in the AID program, short and long-term consultation services; and maintain a capability for developing variety of computing programs and software to assist in processing census and survey data, editing packages, and specialized packages for applying standard, demographic, and statistical techniques.

c. The *Foreign Demographic Analysis Division* shall conduct specialized studies of population, labor force, and statistical reporting systems of foreign countries, involving the collection, compilation, and evaluation of relevant data; prepare estimates and projections and special analytical and interpretative reports and monographs.

Section 11. The Regional Offices

.01 The principal field structure of the Bureau shall consist of twelve regional offices, each headed by a Regional Director who shall report to the Chief of the Field Division in the Office of the Associate Director for Field Operations. The location and geographic area covered by each regional office shall be as shown in Exhibit 2 of this Order. A copy of the Exhibit 2 is on file with the original of this document in the Office of the Federal Register.

.02 Each regional office shall carry out assigned field data collection programs, including recurring and special sample surveys of varying sizes and complexity, periodic censuses, and special censuses and surveys.

.03 As may be required for a specific census or special survey, temporary district or other subordinate offices shall be established under the regional offices.

.04 The Seattle Regional Office shall have an area office in San Francisco, California which shall carry out assigned field data collection programs.

Effective date: August 4, 1980.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80-26988 Filed 9-3-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order 45-1, Amdt. 3]

Economic Development Administration; Statement of Organization and Function and Delegation of Authority

This order effective August 14, 1980 further amends the materials appearing at 44 FR 9414 of February 13, 1979, 44 FR 55026 of September 24, 1979 and 45 FR 19290 of March 25, 1980.

Department Organization Order 45-1, dated January 11, 1979 is hereby further amended as shown below. The purpose of this amendment is to reflect the addition of four new Regional Offices and indicate the areas each Regional Office will serve.

In Section 12. Economic Development Regional Offices, paragraph .01 is revised to read as follows:

".01 The Economic Development Regional Offices, headed by Regional Directors, are as follows:

Standard Federal region	Name/location	Serves
"I	Boston, MA	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.
"II	New York, NY	New Jersey, New York, Puerto Rico, and the Virgin Islands.
"III	Philadelphia, PA	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia.
"IV	Atlanta, GA	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.
"V	Chicago, IL	Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.
"VI	Austin, TX	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.
"VII	Kansas City, MO	Iowa, Kansas, Missouri, and Nebraska.
"VIII	Denver, CO	Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.
"IX	San Francisco, CA	Arizona, California, Hawaii, Nevada, Guam, American Samoa, and Government of the Northern Mariana Islands.

Name/location	Serves
"X..... Seattle, WA.....	Alaska, Idaho, Oregon, and Washington."

Effective date: August 14, 1980.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80-28989 Filed 9-3-80; 8:45 am]

Billing Code 3510-17-M

Cooperative Generic Technology Program

AGENCY: Office of the Secretary, Department of Commerce.

ACTION: Invitation for proposals.

SUMMARY: The Secretary of Commerce announces proposed availability of fiscal year 1981 funds for the establishment of Cooperative Generic Technology Centers, pursuant to 15 CFR 17a.6. Proposals will be considered in the following areas:

—Powder Metal Processing
—Welding and Joining
—Tribology (Friction and Wear)

Projects will be funded through grants. The Department of Commerce has received several unsolicited proposals for the establishment of Centers; the authors of those proposals are invited to resubmit their proposals under this invitation.

EFFECTIVE DATE: The deadline for proposals is October 4, 1980.

ADDRESS AND KEY CONTACT: For further information, contact Mr. Frederick L. Haynes, Department of Commerce, 14th & Constitution Avenue, N.W., Room 3520, Washington, D.C. 20230. Telephone (202) 377-5905.

SUPPLEMENTARY INFORMATION:

A. *Procedures and Proposal Requests:* The Cooperative Generic Technology Program procedures are set forth at 15 CFR Part 17a (45 FR 54028, August 14, 1980). That portion which addresses the requirements for the contents of proposals is set forth at 15 CFR 17a.8 and is reproduced below:

§ 17a.8 Content of proposals.

Each proposal for the establishment of a Center shall contain the following:

(a) A completed *cover sheet* applying for Federal Assistance, SF-424, as described in OMB Circular A-110, Attachment M.

(b) *Corporate Charter and By-laws,* showing that the organization has been established, or will be established, as a nonprofit corporation, and listing the sponsoring individuals.

(1) Each Center's by-laws shall state that the governing board of the Center will ensure fair representation of the interests of all members. No Federal employees will be eligible to serve on a governing board in any capacity.

(2) The Center's by-laws shall also provide that:

(i) Membership in a Center shall be open to all interested domestic persons.

(ii) Dues will be assessed by a formula which considers such factors as:

(A) Overall size of each member;

(B) Volume of activity relevant to the Center's technology;

(C) The member's directness of interest;

(D) A prorated share of the cost of research previously conducted by the Center.

(iii) Membership in a Center may not be conditioned upon adherence to agreements which unreasonably restrain trade. Prohibited agreements shall include:

(A) Restrictions upon members' operational use of technical information or patents developed by the Center;

(B) Restrictions upon independent research conducted by individual members; and

(C) Restrictions upon the use, by individual members, of technology developed outside the Center.

(iv) A Center will not serve as a means for sharing confidential business data among members. Should research or development require the use of such data, it shall be collected either by employees of the Center, or by some independent entity. In no event will such information be shared with the source's competitors in a form which would allow identification of individual firms.

(v) The Center shall make technical information, resulting from the Center's research activities available to all members at a reasonable cost without discrimination. Terms and conditions of dissemination to nonmembers of the Center shall be at the discretion of the Board; however, the Board shall be governed by the consideration that no significant anticompetitive result ensue for such decisions.

(c) *The Site and Organizational Affiliations* of the proposed Center.

(d) *A Center Organization Plan,* which will describe the Center's activities in these major areas:

(1) In-house R&D;

(2) Technical Services, including:

(i) Consulting and technical services;

(ii) Information system services;

(iii) Training;

(iv) Technology evaluation;

(3) Strategic planning.

(4) The Organizational Plan will include the following for each Center function listed above:

(i) Budget;

(ii) Equipment requirements;

(iii) Personnel requirements;

(iv) Facility requirements;

(v) Major milestones;

(vi) Expected outputs.

(e) *Overall Center Budget and Funding Plan,* covering the first five years of Center operation. This plan should identify the funding sources and indicate how these funds will be spent. Institutional support for the Center operations will be funded by membership dues, sales of technical services, and government supplements that will decline over a number of years.

B. *Criteria for Selection of Proposals:* Criteria for the selection of proposals are set forth at 15 CFR 17a.10:

§ 17a.10 Criteria for selection of center proposals.

(a) The Secretary may select one or more proposals for funding, which best meet the following criteria:

(1) The breadth and extent of the base of sponsors committed to collaborate in the work of a center, including the lieklihood of operation of the center independent of government support after a reasonable period of time.

(2) The degree of center operation's enhancement of industry structure and competition.

(3) The comprehensiveness of coverage of the requirements in § 17a.8.

(4) Availability of funds, and program priorities.

C. *Proposals for the Establishment of Centers within Existing Nonprofit Organizations:* 15 CFR 17a.9 provides that:

(a) The Secretary may waive the requirements of Section 17a.8(b) that a center be established as an independent nonprofit organization under the following circumstances:

(1) If the organization is an independent entity within an existing nonprofit organization, and

(2) If the management and direction of the Center is controlled by the sponsoring firms.

(b) Organizations qualified under this section must meet all the requirements of Section 17a.8(b) paragraphs (1) and (2).

D. *Limitation:* The Department of Commerce reserves the right to fund none, one or several center proposals under this invitation, depending upon availability of funds and evaluation of proposals. In addition, approval of any proposal for funding is contingent upon review by the Antitrust Division, Department of Justice.

Issued: September 4, 1980.

Jordan J. Baruch,

Assistant Secretary, Productivity Technology and Innovation.

[FR Doc. 80-26882 Filed 9-3-80; 8:45 am]

BILLING CODE 3510-18-M

DEPARTMENT OF DEFENSE

Department of the Navy

Amendment to Systems of Records

AGENCY: Department of the Navy (U.S. Marine Corps).

ACTION: Notice of amendments to systems of records.

SUMMARY: The U.S. Marine Corps proposes to amend four systems of records subject to the Privacy Act of 1974. The specific changes to the systems being amended are set forth below, followed by the systems published in its entirely, as amended.

DATES: The systems shall be amended as proposed without further notice on October 4, 1980, unless comments are received on or before October 4, 1980, which would result in a contrary determination.

ADDRESS: Send comments to the systems managers identified in the records systems notice.

FOR FURTHER INFORMATION CONTACT: Mrs. B. L. Thompson, Privacy Act Coordinator, Headquarters, U.S. Marine Corps, Washington, D.C. 20380, telephone: 202-694-4115.

SUPPLEMENTARY INFORMATION: The Marine Corps' records systems notices as prescribed by the Privacy Act of 1974, Pub. L. 93-579 (5 U.S.C. 552a) have been published in the Federal Register as follows:

FR Doc 79-36297 (44 FR 68946) November 30, 1979
FR Doc 79-37052 (44 FR 74495) December 17, 1979
FR Doc 80-4470 (45 FR 9316) February 12, 1980
FR Doc 80-5182 (45 FR 10840) February 19, 1980
FR Doc 80-5420 (45 FR 11523) February 21, 1980
FR Doc 80-6233 (45 FR 13182) February 28, 1980
FR Doc 80-15426 (45 FR 33677) May 20, 1980
FR Doc 80-16549 (45 FR 37254) June 2, 1980

The proposed amendments are not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which require the submission of a new or altered system report.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

August 27, 1980.

AMENDMENT

MFD00003

System name:

Joint Uniform Military Pay System/ Manpower Management System (JUMPS/MMS) (45 FR 11523) 21 Feb 80

Changes:

System location:

Primary System, after the word "Activity," delete "1500 East Bannister Road" and substitute with: "1500 East 95th Street." After the word "Center," delete "1500 East Bannister Road" and substitute with: "1500 East 95th Street."

In the first sentence after the words "Decentralized Segments," change the word "eight" to "nine" and add the following to end of paragraph: "SDPI 16, Marine Corps Finance Center, 1500 East 95th Street, Kansas City, Missouri 64197."

Categories of individuals covered by the system:

Delete the entry and substitute with: "All Marine Corps military personnel on active duty for 31 days or longer."

Categories of records in the system:

Delete the entire entry and substitute the following: "File contains personnel and pay data which includes: Name, grade, SSN, date of birth, citizenship, marital status, home of record, dependents information, record of emergency data, enlistment contract or officer acceptance form information, duty status, population group, sex, ethnic group, duty station/personnel assignment and unit information, security investigation, military pay record data such as information contained on the Leave and Earnings Statement which may include base pay/ allowance/allotments/bond authorization, health care coverage, special pay and bonus data, Federal and State Withholding/Income Tax Data, Federal Indemnity Compensation Act Tax Withholding Data, Serviceman's Group Life Insurance Deductions, leave account, wage and tax summaries, separation document code, test scores/ information, language proficiency, military/civilian/off-duty education, training information, awards, combat tour information, aviation/pilot/flying time data, lineal precedence number, limited duty officer/warrant officer footnote, TAD data, power of attorney, moral code, conduct and proficiency marks, years in service."

MFD00004

System name:

Bond and Allotment (B&A) System (44 FR 74501) 17 Dec 1979

Changes:

System location:

Delete the entry and substitute the following: "Marine Corps Central Design and Programming Activity (MCCDPA), 1500 East 95th Street, Kansas City, Missouri 64131; Marine Corps Finance Center, Kansas City, Missouri 64197.

Routine uses of records maintained in the system including categories of users and the purposes of such uses:

In paragraph two, delete the words "The allotment class and dollar value" and substitute "The allotment class, dollar value, and allotee." Delete the subparagraph beginning "The allotment information concerning first, last payment dates * * *"

Record access procedures:

Delete the entire entry and substitute the following: "Information may be obtained from the Marine Corps Finance Center, Centralized Pay Division (Code CPA), 1500 East 95th Street, Kansas City, Missouri 64197. Written requests must contain name and SSN. For personal visits, valid personal identification is required."

MFD00005

System name:

Retired Pay/Personnel System (RPPS) (44 FR 74501) 17 Dec. 1979.

Changes:

System location:

Delete the entire entry and substitute "Marine Corps Central Design and Programming Activity, 1500 East 95th Street, Kansas City, Missouri 64131; Marine Corps Finance Center, 1500 East 95th Street, Kansas City, Missouri 64197."

Categories of records in the system;

In line 7, delete the words "Recomputation Code" and substitute "Race Code; Sex Code." At the end of the paragraph, add "Veterans Administration Claim Number; Tower Amendment Code."

MFD00006

System name:

Centralized Automated Reserve Pay System (CAREPAY) (44 FR 74502) 17 Dec. 1979.

Changes:

System location:

Delete the entire entry and substitute the following: "Marine Corps Central Design and Programming Activity (MCCDPA), 1500 East 95th Street, Kansas City, Missouri 64131; Marine Corps Finance Center, 1500 East 95th Street, Kansas City, Missouri 64197."

Categories of records in the system:

Delete the entire entry and substitute the following: "File contains information to process payment to active reservists which include: Name, SSN, grade, unit information, pay group, administrative duty pay, number of drills performed/ authorized, basic pay, aviation crew member drills, number of tax exemptions, tax withheld, taxable pay, Federal Insurance Contributions Act Withheld, taxable and non-taxable credit/checkage, gross and net pay, dates of active duty, Serviceman's Group Life Insurance Premium Selection."

MFD00003

SYSTEM NAME:

Joint Uniform Military Pay System/ Manpower Management System (JUMPS/MMS)

SYSTEM LOCATION:

Primary System—Marine Corps Central Design and Programming Activity, 1500 East 95th Street, Kansas City, Missouri 64131; Marine Corps Finance Center, 1500 East 95th Street, Kansas City, Missouri 64197.

Decentralized Segments—There are nine Satellite/Command Data Processing Installations (SDPI/CDPI) which maintain files with similar records at the following locations: SDPI 02, Marine Corps Base, Camp Lejeune, NC 28542; SDPI 03, Marine Corps Base, Camp Pendleton, CA 92055; SDPI 06, FMF Pacific, FPO San Francisco, CA 96610; SDPI 09, Headquarters U.S. Marine Corps, Washington, D.C. 20380; SDPI 11, Marine Corps Recruit Depot, Parris Island, SC 29905; SDPI 15, Marine Corps Recruit Depot, San Diego, CA 92140; SDPI 17, Marine Corps Base, Quantico, VA 22134; SDPI 27, Marine Corps Base, Camp S. D. Butler, FPO Seattle, WA 98773; First Marine Brigade, FPO San Francisco, CA 96615; SDPI 16, Marine Corps Finance Center, 1500 East 95th Street, Kansas City, Missouri 64197.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Marine Corps military personnel on active duty for 31 days or longer.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains personnel and pay data which includes: Name, grade, SSN, date of birth, citizenship, marital status, home of record, dependents information, record of emergency data, enlistment contract or officer acceptance form information, duty status, population group, sex, ethnic group, duty station/ personnel assignment and unit information, security investigation, military pay record data such as information contained on the Leave and Earnings Statement which may include base pay/allowances/allotments/bond authorization, health care coverage, special pay and bonus data, Federal and State Withholding/Income Tax Data, Federal Indemnity Compensation Act Tax Withholding Data, Serviceman's Group Life Insurance Deductions, leave account, wage and tax summaries, separation document code, test scores/ information, language proficiency, military/civilian/off-duty education, training information awards, combat tour information, aviation/pilot/flying time data, lineal precedence number, limited duty officer/warrant officer footnotes, TAD data, power of attorney, moral code, conduct and proficiency marks, years in service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Titles 10 and 37, U.S. Code Section 5031 and 5201.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Headquarters, U.S. Marine Corps and Marine Corps commands, activities and organizations—By officials and employees of the Marine Corps in the performance of their assigned duties in matters relating to a Marine's automated pesonnel and/or pay record.

Department of Defense and its components—By officials and employees of the Department in the performance of their official duties.

The Attorney General of the U.S.—By officials and employees of the Office of the Attorney General in connection with litigation, law enforcement of other matters under the direct jurisdiction of the Department of Justice or as carried out as the legal representative of the Executive Branch agencies.

Courts—By officials of duly established local, state and federal courts as a result of court order pertaining to matters properly within the purview of said court.

Congress of the U.S.—By the Senate or the House of Representatives of the U.S. or any committee or subcommittee thereof, any joint committee of Congress or subcommittee of joint committee on matters within their jurisdiction requiring disclosure of the files.

The Comptroller General of the U.S.—By the Comptroller General or any of his authorized representatives in the course of performance of duties of the General Accounting Office relating to the Marine Corps.

By officials and employees of the American Red Cross and the Navy Relief Society in the performance of their duties. Access will be limited to those portions of the members record required to effectively assist the member.

Federal, state and local government agencies—By officials and employees of federal, state and local government through official request for-information with respect to law enforcement investigatory procedures, criminal prosecution, civil court action and regulatory order.

To provide information to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States which has been authorized by law to conduct law enforcement activities pursuant to a request that the agency initiate criminal or civil action against an individual on behalf of the U.S. Marine Corps, The Department of the Navy, or the Department of Defense.

To provide information to individuals pursuant to a request for assistance in a criminal or civil action against a member of the U.S. Marine Corps, by the U.S. Marine Corps, the Department of the Navy, or the Department of Defense.

Department of Health and Human Services (DHHS)—Disclosure of the name, rank or grade, and Social Security Account Number of each Marine Corps active duty military member to the Inspector General of DHHS for the specific purpose of comparison with appropriate rolls reflecting recipients of Aid to Families with Dependent Children (AFDC).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ASSESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Data is recorded on magnetic records and discs, punch cards, computer printouts, microform, file folders, and other documents.

RETRIEVABILITY:

The data contained in magnetic records can be displayed on cathode-ray tubes, it can be computer printed on

paper, and it can be converted to microform for information retrieval; the data in the supporting file folders and other manual records is retrieved manually. Computerized and conventional indices are required to retrieve individual records from the system. Normally, all types of records are retrieved by Social Security Number and name.

SAFEGUARDS:

Building management employs security guards; building is locked nights and holidays. Authorized personnel may enter and leave the building during nonworking hours but must sign in and out. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Access to personal information is limited to authorized personnel with a need-to-know. Access is restricted to specific applications programs, records, and files to which personnel have a specific and recorded need-to-know. On line data sets (both tape and disc) pertaining to personal information are password protected, areas are controlled and access lists are used. The files are also protected at a level appropriate to the type of information being processed.

RETENTION AND DISPOSAL:

Magnetic records are maintained on all Marine Corps personnel while they are in service, and for a period of 4 months after they are separated from the service. Paper and film records are maintained for a period of 10 years after the final transaction. End calendar and fiscal year "snapshots" of the MMS data base are maintained indefinitely in magnetic form at Headquarters, U.S. Marine Corps.

SYSTEM MANAGER(S) AND ADDRESS:

Commandant of the Marine Corps, Codes FD/MP, Headquarters, U.S. Marine Corps Washington, D.C. 20380.

NOTIFICATION PROCEDURE:

Requests from individuals for information concerning pay related matters should be addressed to the Commandant of the Marine Corps (Code FD). Requests from individuals for information concerning personnel matters should be addressed to the Commandant of the Marine Corps (Code MP).

Requesting individual must supply full name and Social Security Number. The requester may visit the Marine Corps Finance Center, 1500 East 95th Street, Kansas City, Missouri 64197 to obtain information on whether the system contains records pertaining to him or her.

In order to personally visit the above address and obtain information, individuals must present a military identification card, a driver's license, or other suitable proof of identity.

RECORD ACCESS PROCEDURES:

Information on JUMPS may be obtained from the member's local disbursing officer. Information on MMS may be obtained from the member's immediate commanding officer. Requests for information from persons no longer in service should be signed by the person requesting the information. Rates of service, Social Security Number, and full name of requester should be printed or typed on the request. It should be sent to the Marine Corps Finance Center, 1500 East 95th Street, Kansas City, Missouri 64197.

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Recruiting offices, disbursing offices, administrative offices, and the individual Marine are the principal sources of the information contained in the JUMPS/MMS record for that person.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

MFD00004

SYSTEM NAME:

Bond and Allotment (B&A) System

SYSTEM LOCATION:

Marine Corps Central Design and Programming Activity (MCCDPA), 1500 East 95th Street, Kansas City, Missouri 64131; Marine Corps Finance Center, 1500 East 95th Street, Kansas City, Missouri 64197.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The allotment system contains all active allotments and limited (12 months) stop history for each active duty, retired, and Fleet Marine Corps Reserve (FMCR) member who authorized an allotment from his pay and allowances.

CATEGORIES OF RECORDS IN THE SYSTEM:

The allotment file contains allotments authorized by the Marines concerned, as provided under instructions issued by the Secretary of Defense.

The B&A automated system is made up of records which contain the following: Identification Number (Social Security Number (SSN)); Initials of Name (Last, First, Middle); Grade/Category; Last Name and Suffix; Last Pay Date; First Pay Date; Work Date; Amount; Term (in months); Account/Policy Number; Authority/Date/Remark; Bond Owner Name; Bond Owner SSN; Co-owner Beneficiary SSN; Name of Recipient; Street/Post Office Box; City and State/Country; Geographic Code (City, State/Country); Zip Code.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 37, U.S. Code. The authority for continuing deduction for garnishment of pay is outlined in section 459 of Public Law 93-647.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The purpose of the system is to provide for the payment of allotments and for the issuance, cancellation of U.S. Treasury checks and savings bonds as authorized by appropriate directives. The data obtained from the system provides for the control and ultimate disposition of all treasury checks and savings bonds prepared. Allows for the collection of appropriate data, to render an accurate accounting of public funds expended or collected as required by the Navy Comptroller Manual. The allotment file is utilized by the Joint Uniform Military Pay System/Manpower Management System (JUMPS/MMS) and Retired Pay Systems to calculate the monies due active duty, retired, and FMCR members of the U.S. Marine Corps.

The allotment class, dollar value, and allotee are displayed on the JUMPS Leave and Earnings Statement (LES) as issued. Copies of the LES are distributed as follows:

Original (white)—Disbursing Officer (DO) having custody of the Personal Financial Record,

Duplicate (yellow)—furnished the Marine concerned,

Triplicate (pink)—furnished the Commanding Officer (CO) for retention on the Marine's service record.

For permanent record retention purposes, one copy will be filed at the MCFC in microform.

The total dollar value of active allotments is furnished each retired and FMCR Marine each time a new statement of his account card is prepared.

Verification and/or information concerning a specific allotment may be

released (as requested) to the following: Marine concerned, Marine's CO, Marine's DO, Recipient of the allotment, Treasury Department, Federal Reserve Bank, Federal Bureau of Investigation, Naval Audit Service, General Accounting Office, Postal Inspectors.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Data is recorded on magnetic records, punch cards, computer printouts, microform, file folders, and other documents.

RETRIEVABILITY:

The data contained in magnetic records can be displayed on the cathode-ray tubes, it can be computer printed on paper, and it can be converted to microform for information retrieval; the data in the supporting file folders and other manual records is retrieved manually. Normally all types of records are retrieved by SSN and name.

SAFEGUARDS:

The Centralized Pay Division is locked during nonduty hours, as well as the building being under security guard protection. Files within the Division are accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Magnetic records are maintained by MCCDPA on all active allotments during the life of the allotment and for a period of 12 months after the allotment has been stopped. Paper and microform files of the Centralized Pay Division are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Commandant of the Marine Corps (Code FD), Headquarters, U.S. Marine Corps, Washington, D.C. 20380.

NOTIFICATION PROCEDURE:

Individual requests for information should be addressed to the Marine Corps Finance Center, Centralized Pay Division (Code CPA), Kansas City, Missouri 64197.

Requests for information must contain member's SSN, name, military service number (if applicable), and any other pertinent data concerning the information desired.

A person may visit any Marine Corps disbursing office to find out if the system contains records pertaining to him or her.

For personal visits the requester must present a military identification card or copy of an Armed Forces of United States Report of Separation from Active Duty (DD Form 214 (MC)) for separated personnel.

RECORD ACCESS PROCEDURES:

Information may be obtained from the Marine Corps Finance Center, Centralized Pay Division (Code CPA), 1500 East 95th Street, Kansas City, Missouri 64197. Written requests must contain name and SSN. For personal visits, valid personal identification is required.

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by individual concerned may be obtained from the SYSMANAGER.

Information pertaining to an individual who has active allotments is affected by unit diary input concerning name, or SSN changes, and to ensure allotments are stopped when a Marine is reported to be discharged or in a desertion status. Also, member's status codes are changed by unit diary or Retired Pay input when the Marine is transferred to the FMCR or Retired List.

RECORD SOURCE CATEGORIES:

The input of data from allotment/bond authorizations, other scannable documents, magnetic tapes received from the Satellite Data Processing Installations, and computer interfaces with the JUMPS/MMS and the Retired Pay systems are the principal sources of the information contained in the B&A automated system.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

MFD00005

SYSTEM NAME:

Retired Pay/Personnel System (RPPS)

SYSTEM LOCATION:

Marine Corps Central Design and Programming Activity, 1500 East 95th Street, Kansas City, Missouri 64131; Marine Corps Finance Center, 1500 East 95th Street, Kansas City, Missouri 64197.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Pay account folders for retired Marine Corps members, Fleet Marine Corps Reservists (FMCR), and survivors of deceased retired and FMCR members, who are entitled to retired pay, retainer pay, and survivor annuities.

CATEGORIES OF RECORDS IN THE SYSTEM:

The RPPS automated system of records contains the following information: Retired/Retainer Date; Retainer Date; Pay Change; Information Status; Social Security Number (SSN) and Last, First, and Middle Initial (Key); Deletion Date; SSN; Retired Category Code; Member's Name; Pay Entry Base Date; Service for Pay; Active Service; Other Military Service Number (MSN); Prior MSN/SSN/Key, Grade Code; Race Code; Sex Code; Disability Percent; Heroism Pay; Pay Table Code; Recomputation Age; Retirement Laws; Functional Account Number; Grades; Birthdates; Pay Delete/Suspense Code; Retired Serviceman's Family Protection Pay; Reserve Retirement Credit Points; Allotment Data: Withholding Tax Data; Wage and Tax Summaries; Gross Pay; Taxable Pay; Withholding Tax; Dependency Indemnity Compensation; Pension Act of 1944 (Veterans Administration (VA) Waiver); Pension Act of 1984 (Dual Compensation GI); Retired Serviceman's Family Protection Plan; Survivor Benefit Plan; Social Security; Scheduled Collections; Net Pay; Special Handling Code (Check Delivery); Accumulated Summaries; Home Mailing Address; Check Mailing Address; Pay Distribution; Last Change Posted; Date Member Eligible to Retire; Date Arrived Continental United States Without Dependents; Primary Military Occupational Specialty; Districts; Highest Grade Held Satisfactorily; Service Prior to 1 July 1949; Service After 1 July 1949; Active Duty After Transfer to Fleet/Retired Rolls; Date Next Fiscal Year and Month; VA Disease Codes; Department of Defense Disease Codes; Nearest Hospital (See Table 9); Personnel Accounting Separation—Designator; Earnings Statement Flag; Disability Pay; Change of Address Flag; Last Time Processed by Update-Extractor; SSN Validation; Remarks Area; One-Time Credit/Checkage; Scheduled Collection; Veterans Administration Claim Number; Tower Amendment Code.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S. Code 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS OF THE PURPOSES OF SUCH USES:

Computation of retired pay, retainer pay, and survivor annuity accounts, perform audit of accounts, reply to correspondence, etc.

Creation of printed reports, records, checks, microforms, magnetic files, etc., based on information available in the system. This output is used by various departments of the Marine Corps for pay, personnel, audit, and other purposes. Some of this information is made available to authorized local, state and Federal agencies.

Displaying all of or part of any selected record on a cathode-ray tube for research, audit, update, and similar purposes.

Used for extraction or compilation of statistical data and reports for management studies and statistical analyses for use internally or externally as required by Department of Defense or by government agencies.

By officials and employees of the American Red Cross and the Navy Relief Society in the performance of their duties. Access will be limited to those portions of the member's record required to effectively assist the member.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Data is recorded on magnetic records, punch cards, computer printouts, microform, file folders, and other documents.

RETRIEVABILITY:

The data contained in magnetic records can be displayed on cathode-ray tubes, it can be computer printed on paper and it can be converted to microform for information retrieval; the data in the supporting file folders and other manual records is retrieved manually. Normally all types of records are retrieved by SSN and name.

SAFEGUARDS:

Building management employs security guards; building is locked nights and holidays. Authorized personnel may enter and leave the building during nonworking hours, but must sign in and out.

RETENTION AND DISPOSAL:

Magnetic records are maintained on all persons who are eligible for retired pay, retainer pay, and survivor annuities while they are alive and for a period of 6 months after that person dies or ceases to be eligible. Paper and film records are maintained for a period of 10 year after the final transaction.

SYSTEM MANAGER(S) AND ADDRESS:

Commandant of the Marine Corps (Code FD), Headquarters, U.S. Marine Corps, Washington, D.C. 20380.

NOTIFICATION PROCEDURE:

Requests from individuals for information should be referred to the SYSMANAGER.

Requesting individual must supply full name and SSN.

The requester may visit the Marine Corps Finance Center, 1500 East 95th Street, Kansas City, Missouri 64197, to obtain information on whether the system contains records pertaining to him or her.

In order to personally visit the above address and obtain information, individuals must present a military identification card, a drivers license, or other suitable proof of identity.

RECORD ACCESS PROCEDURES:

Requests for information relative to the RPPS automated system should be signed by the person requesting the information. Dates of service, SSN, and full name of requester should be printed or typed on the request. It should be sent to the SYSMANAGER.

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Documents and correspondence received from headquarters, U.S. Marine Corps, the Veterans Administration, the member, changes in laws, etc. are the principal sources of information contained in the RPPS automated system.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

MFD00006

SYSTEM NAME:

Centralized Automated Reserve Pay System (CAREPAY)

SYSTEM LOCATION:

Marine Corps Central Design and Programming Activity (MCCDPA), 1500 East 95th Street, Kansas City, Missouri 64131; Marine Corps Finance Center, 1500 East 95th Street, Kansas City, Missouri 64197.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of Organized Marine Corps Reserve Units who are active Reservists (Class II) and perform a maximum of 48 paid drills and 14 days Annual Training Duty per year.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains information to process payment to active reservists which includes: Name, SSN, grade, unit information, pay group, administrative duty pay, number of drills performed/authorized, basic pay, aviation crew member drills, number of tax exemptions, tax withheld, taxable pay, Federal Insurance Contributions Act Withheld, taxable and non-taxable credit/checkage, gross and net pay, dates of active duty, Serviceman's Group Life Insurance Premium Selection.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10 and 37, U.S. Code.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Central Accounts Division clerks and analysts use these data to process payments and to answer inquiries concerning payments, received from Marine Reservists, Internal Revenue Service, Welfare agencies and the Commandant of the Marine Corps.

Examination Division clerks use these data to verify proper payment and to process old pay inquiries.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Data are recorded on magnetic records, punch cards, computer printouts, microform, file folders, and other documents.

RETRIEVABILITY:

The data contained in magnetic records can be computer printed on paper and it can be converted to microform for information retrieval; the data in the supporting file folders and other manual records are retrieved manually. Normally all types of records are retrieved by SSN/name/reporting unit Code.

SAFEGUARDS:

Building employs security guards. Records are maintained in areas accessible only to personnel working there and are kept in file desks made for that purpose for 6 months and in DIBOLD vertical file for 12 months after which they are transferred to the Examination Division.

RETENTION AND DISPOSAL:

Magnetic records are maintained by MCCDPA on all active Reservists; they are retained for a period of 4 months after the individual Marine ceases to be active.

Paper and microform records are held for 4 years, 6 months at the Center, thereafter they are retired to a Federal Records Center in accordance with Secretary of the Navy Instruction P5212.5.

SYSTEM MANAGER(S) AND ADDRESS:

Commandant of the Marine Corps (Code FD), Headquarters, U.S. Marine Corps, Washington, D.C. 20380.

NOTIFICATION PROCEDURE:

Requests from individuals for information should be referred to the SYSMANAGER.

Requesting individual must supply full name and SSN.

The requester may visit the Marine Corps Finance Center, 1500 95th Street, Kansas City, Missouri 64197, to obtain information on whether the system contains records pertaining to him or her.

In order to personally visit the above address and obtain information, individuals must present a military identification card, a driver's license, or other suitable proof of identity.

RECORD ACCESS PROCEDURE:

Requests for information relative to CAREPAY should be signed by the person requesting the information. Dates of service, SSN, and full name of requester should be printed or typed on the request. It should be sent to the SYSMANAGER.

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by individuals concerned may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Organized Marine Corps Reserve Units, Internal Revenue Service, individual Marine.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-26959 Filed 9-3-80; 8:45 am]

BILLING CODE 3810-71-M

Amendment and Deletions to Systems of Records

AGENCY: Department of the Navy (DON).

ACTION: Notice of amendment and deletion of systems of records.

SUMMARY: The Department of the Navy proposes to amend one system of records and delete three systems of records subject to the Privacy Act of 1974. The specific change to the system being amended is set forth below followed by the system published in its entirety, as amended.

DATES: The system shall be amended as porposed without further notice on October 4, 1980, unless comments are received on or before October 4, 1980, which would result in a contrary determination.

ADDRESS: Send comments to the systems managers identified in the records systems notices.

FOR FURTHER INFORMATION CONTACT: The Navy systems of records notices as prescribed by the Privacy Act of 1974, Title 5 U.S.C., Section 552a (Pub. L. 93-579) have been published in the Federal Register as follows:

FR Doc 79-36400 (44 FR 67703) November 27, 1979.
FR Doc 79-36798 (44 FR 68947) November 30, 1979.
FR Doc 79-37052 (44 FR 74553) December 17, 1979.
FR Doc 80-6599 (45 FR 13794) March 3, 1980.
FR Doc 80-14965 (45 FR 32037) May 15, 1980.
FR Doc 80-15427 (45 FR 336679) May 20, 1980.
FR Doc 80-17286 (45 FR 38099) June 6, 1980.
FR Doc 80-19603 (45 FR 43841) June 30, 1980.
FR Doc 80-20317 (45 FR 43938) July 8, 1980.
FR Doc 80-23111 (45 FR 50851) July 31, 1980.
FR Doc 80-24237 (45 FR 53593) August 12, 1980.

The proposed amendment is not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires the submission of a new or altered systems report.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

August 27, 1980.

Deletions

N00037 NAVWUIS

System name:

Navy Work Unit Information System (44 FR 74610) 17 Dec. 79.

Reason:

This system has been discontinued.

N00037 R&D Planning

System name:

Navy Research and Development Planning Summary System (DD 1634) System (44 FR 74611) 17 Dec. 79.

Reason:

This system has been discontinued.

N0037 Tech Reports

System name:

Navy Technical Reports System (44 FR 74611) 17 Dec. 79.

Reason:

This system has been discontinued.

N96021-431

System name:

Employee Relations Including Discipline, Employee Grievances, Complaints, etc. (44 FR 74664) 17 Dec. 79.

Changes:

System location:

Delete the phrase: "Office of Civilian Manpower Management, Regional Offices of Civilian Manpower Management, Capital Area Personnel Services Office . . ." and substitute with: "Chief of Naval Operations (OP-14), Naval Civilian Personnel Command (NCPC), NCPC Field Divisions . . ."

Categories of individuals covered by the system:

Delete the last sentence beginning with the words: "Management Operations Record System consisting . . ."

Categories of records in the system:

Add at the end of the entry, the following sentence: "Management Operations Record System consisting of manual file maintained by immediate supervisiors and high level managers concerning employee performance, capability, informal discipline, attendance, leave and tardiness, work assignments, and similar work related to employee records, including formal and informal supervisor's notes."

Authority for maintenance of the system:

Delete the entire entry and substitute with the following: "Executive Order 9830, Amending the Civil Service Rules and Providing for Federal Personnel Administration, Amended by Executive Order 10577 and Executive Order 12106; Executive Order 12107; 5 U.S.C. 1205, 1206, 1207, 1302, 3301, 3302, 7105, 7512, relevant portions of the Civil Service Reform Act, Pub. L. 95-454; 42 U.S.C. Section 2000e-116 et. seq.; Equal Employment Opportunity Act of 1972, Pub. L. 93-259, amendment to the Fair Labor Standards Act, 29 U.S.C. Section 201, et seq.; Age Discrimination and Employment Act, 29 U.S.C. Section 633a; the Rehabilitation Act of 1978 as amended, 29 U.S.C. 791, 794a."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In the ninth line, change the phrase ". . . Federal Employees Appeals Authority . . ." to read: ". . . Merit Systems Protection Board and Equal Employment Opportunity Commission . . ."

Add the following sentence at the end of the entire entry: "The records may also be used to disclose information to any source from which additional information is requested in the course of processing a grievance or appeal to the

extent necessary to identify the individual, inform the source of the purpose(s) of the request and identify the type of information requested. The records may also be used to disclose information to a Federal agency in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary. The records may be used by the National Archives and Records Service (General Services Administration) in records management inspection conducted under authority of 5 U.S.C. 2904 and 2906. The records may be used to disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in the pending judicial or administrative proceeding. The records may also be used to provide information to officials of labor organizations recognized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices and matters affecting working conditions."

System manager(s) and address:

Delete the entire entry and substitute with: "Chief of Naval Operations (OP-14), Department of the Navy, Washington, D.C. 20350."

N96021-431

SYSTEM NAME:

Employee Relations Including Discipline, Employee Grievances, Complaints, etc. (44 FR 74664) 17 Dec. 79.

SYSTEM LOCATION:

Chief of Naval Operations (OP-14), Naval Civilian Personnel Command (NCPC), NCPC Field Divisions, Navy and Navy Staff Headquarters and Field Activities employing civilians. Mailing addresses are provided in the Department of the Navy Directory published in the Federal Register.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy civilian employees, paid from appropriated funds serving under career, career-conditional, temporary and excepted service appointments on whom discipline, grievances, and complaints records exist. Discrimination complaints of Navy civilian employees, paid from appropriated and non-appropriated funds, applicants for employment and former employees in appropriated and non-appropriated positions. Appeals of Navy civilian employees paid from appropriated funds. Filipino employee appeal case files ("Filipinos who are lawfully admitted residents"). Cases reviewed by CINCPAC under Filipino Employment Policy Instructions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Manual files, maintained in paper folders, contain copies of documents and information pertaining to discipline, grievances, complaints, and appeals. Management Operations Record System consisting of manual file maintained by immediate supervisors and high level managers concerning employee performance, capability, informal discipline, attendance, leave and tardiness, work assignments, and similar work related to employee records, including formal and informal supervisor's notes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 9830, Amending the Civil Service Rules and Providing for Federal Personnel Administration, Amended by Executive Order 10577 and Executive Order 12106; Executive Order 12107; 5 U.S.C. 1205, 1206, 1207, 1302, 3301, 3302, 7105, 7512, relevant portions of the Civil Service Reform Act, Pub. L. 95-454; 42 U.S.C. Section 2000e-116 et. seq.; Equal Employment Opportunity Act of 1972, Pub. L. 93-259, amendment to the Fair Labor Standards Act, 29 U.S.C. Section 201, et. seq.; Age Discrimination and Employment Act, 29 U.S.C. Section 633a; the Rehabilitation Act of 1978 as amended, 29 U.S.C. 791, 794a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Officials of the Department of the Navy in the performance of their official duties related to the management of civilian employees in the processing, administration and adjudication of discipline, grievances, appeals, litigation and program evaluation. Representatives of the United States Office of Personnel Management on matters relating to the inspection, survey, audit or evaluation of a Navy civilian personnel management program or personnel action, or other such matters under the jurisdiction of the Office of Personnel Management. Appeals officers and complaints examiners of the Merit Systems Protection Board and Equal Employment Opportunity Commission for the purpose of conducting hearings in connection with employees appeals from adverse actions and formal discimination complaints. The Comptroller General or any of his authorized representatives, in the course of the performance of duties of the General Accounting Office relating to the Navy's civilian, manpower management programs. The Attorney General of the United States or his authorized representatives in connection with litigation law enforcement, or other matters under the direct jurisdiction of the Department of Justice or carried out as the legal representative of the Executive Branch agencies. The Senate or the House of Representatives of the United States or any member, committee or subcommittee of joint committees on matters within their jurisdiction relating to the programs. The records may also be used to disclose information to any source from which additional information is requested in the course of processing a grievance or appeal to the extent necessary to identify the individual, inform the source of the purpose(s) of the request and identify the type of information requested. The records may also be used to disclose information to a Federal agency in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary. The records may be used by the National Archives and Records Service (General Services Administration) in records management inspection conducted under authority of 5 U.S.C. 2904 and 2906. The records may be used to disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in the pending judicial or administrative proceeding. The records may also be used to provide information to officials of labor organizations recognized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices and matters affecting working conditions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Manual records are stored in paper folders.

RETRIEVABILITY:

Manual records are filed by last name.

SAFEGUARDS:

All records are stored under strict control, and are available only to authorized personnel having a need to know.

RETENTION AND DISPOSAL:

Manual records are destroyed upon separation of the employee from the activity, or in accordance with appropriate record disposal schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Naval Operations (OP–14), Department of the Navy, Washington, D.C. 20350.

NOTIFICATION PROCEDURES:

Requests by correspondence should be addressed to the Chief of Naval Operations (OP–14), Department of the Navy, Washington, D.C. 20350, Commanding Officers or Heads of Navy Staff Headquarters and Field Activities. The letter should contain the full name, social security number, and signature of the requester. The individual may visit the Chief of Naval Operations (OP–14), Department of the Navy, Arlington Annex, Washington, D.C. or the Navy Activity at which he or she is employed. The addresses of these activities are provided in the Department of the Navy Directory, published in the Federal Register.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the System Manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Supervisors or other appointed officials designated for this purpose.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-28960 File 9-3-80; 8:45 am]

BILLING CODE 3810-71-M

Office of the Secretary

Per Diem, Travel, and Transportation Allowance Committee; Changes in Per Diem Rates

AGENCY: Per Diem, Travel and Transportation Allowance Committee, DoD.

ACTION: Publication of changes in per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is pubishing Civilian Personnel Per Diem Bulletin Number 94. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico and possessions of the United States. Bulletin Number 94 is being published in the Federal Register to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: August 26, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick W. Weiser, 325–9330.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Per Diem Bulletins by mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the Federal Register now constitute the only notification of changes in per diem rates to agencies and establishmenmts outside the Department of Defense.

The text of the Bulletin follows:

Civilian Personnel Per Diem Bulletin Number 94

To the Heads of Executive Departments and Establishments

Subject: Table of maximum per diem rates in lieu of subsistance for United States Government civilian officers and employees for official travel in Alaska, Hawaii, the commonwealth of Puerto Rico and possessions of the United States.

1. This bulletin is issued in accordance with Memorandum for Heads of Executive Departments and Establishments from the Deputy Secretary of Defense dated August 17, 1966, Subject: Executive Order 11294, August 4, 1966, "Delegating Certain Authority to the President ot Establish Maximum Per Diem Rates for Government Civilian Personnel in Travel Status" in which this Committee is directed to exercise the authority of the President (5 U.S.C. 5702(a)(2)) delegated to the Secretary of Defense for Alaska, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone, and possessions of the United States. When appropriate and in accordance with regulations issued by competent authority, lesser rates may be prescribed.

2. The maximum per diem rates shown in the following table are continued from the preceding Bulletin Number 93 except in the case identified by an asterisk which rate is effective on the date of this Bulletin. The date of this Bulletin shall be the date the last signature is affixed hereto.

3. Each Department or Establishment subject to these rates shall take appropriate action to disseminate the contents of this Bulletin to the appropriate headquarters and filed agencies affected thereby.

4. The maximum per diem rates referred to in this Bulletin are:

Locality	Maximum rate
Alaska:	
Adak [1]	$9.65
Anaktuvuk Pass	140.00
Anchorage	72.00
Barrow	111.00
Bethel	93.00
Cold Bay	74.00
College	67.00
Cordova	84.00
Deadhorse	94.00
Dillingham	83.00
Dutch Harbor	82.00
Eielson AFB	67.00
Elmendorf AFB	72.00
Fairbanks	67.00
Ft. Richardson	72.00
Ft. Wainwright	67.00
Kodiak	84.00
Kotzebue	91.00
Murphy Dome	67.00
Noatak	91.00
Nome	90.00
Noorvik	91.00
Shemya AFB [1]	11.00
Shungnak	91.00
Spruce Cape	84.00
Tanana	90.00
Valdez	70.00
Wainwright	79.00
All Other Localities	62.00
*American Samoa	65.00
Guam M.I.	60.00
Hawaii:	
Oahu	70.00
All Other Localities	60.00
Johnston Atoll [2]	15.50
Midway Islands [1]	9.65
Puerto Rico:	
Bayamon:	
12-16—5-15	102.00
5-16—12-15	75.00
Carolina:	
12-16—5-15	102.00
5-16—12-15	75.00
Fajardo:	
12-16—5-15	102.00
5-16—12-5	75.00
Ft. Buchanan (Incl. GSA Service Center, Guaynabo):	
12-16—5-15	102.00
5-16—12-15	75.00
*Ponce (Incl. Ft. Allen NCS)	68.00
Roosevelt Roads:	
12-16—5-15	102.00
5-16—12-15	75.00
Sabana Seca:	
12-16—5-15	102.00
5-16—12-15	75.00
San Juan (Incl. San Juan Coast Guard Units):	
12-16—5-15	102.00
5-16—12-15	75.00
All Other Localities	63.00
Virgin Islands of U.S.:	
12-1—4-30	89.00
5-1—11-30	65.00
Wake Island [2]	17.00
Other Localities	15.00

[1] Commercial facilities are not available. This per diem rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for government quarters by the traveler.

[2] Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount

necessary to defray the cost of lodging, meal, and incidental expenses.

M. S. Healy,
OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.
August 29, 1980.

[FR Doc. 80-27072 Filed 9-3-80; 8:45 am]
BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Establishment of Performance Review Board, Names of Board Members, and Schedule for Awarding Senior Executive Service Bonuses

Section 4314(c) of title 5 United States Code (as amended by the Civil Service Reform Act of 1978) requires that the Department of Energy establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more Performance Review Board(s) to review, evaluate and make a final recommendation on performance appraisals assigned to Departmental members of the Senior Executive Service. The Performance Review Board established for the Department of Energy also makes written recommendations to the Executive Personnel Board or Chairman of the Federal Energy Regulatory Commission regarding Senior Executive Service performance bonuses, awards, and performance-related actions.

Office of Personnel Management guidelines require that each agency publish a notice in the Federal Register of the agency's schedule for awarding Senior Executive Service bonuses at least 14 days prior to the date on which the awards will be paid. The Department of Energy intends to award bonuses for the performance rating cycle of October 1, 1979, through August 15, 1980, with payouts scheduled by September 30, 1980.

Section 4314(c)(4) of title 5 United States Code requires that notice of appointment of Performance Review Board members be published in the Federal Register. The following persons have been appointed to serve on the performance review board standing register for the Department of Energy:

Deanne C. Siemer
Bernhardt Wruble
Richard L. Wright
Leslie Daly
Frank Pagnotta
Richard J. Stone
Tina Hobson
Harold J. Keohane
Robert A. Low
Obra S. Kernodle III
Louis F. Centofanti
G. Daniel Rambo
Mary T. O'Halloran
Charles F. Metzger
Jack G. Robertson
Charles E. Williams
Alex J. Fremling
Robert H. Bauer
Robert J. Hart
Joe B. Lagrone
James K. Wright
Edward L. Heller
Thomas C. Newkirk
Robert M. Hallman
Stephen E. McGregor
David L. Bodde
Michael J. Gillette
W. David Montgomery
Jimmie L. Petersen
Charles S. Smith
Lillian D. Regelson
Elizabeth C. MacRae
Maxine L. Savitz
Bennett Miller
Melvin Chiogioji
Robert San Martin
John E. Treat
James S. Moose
F. Scott Bush
Robert L. Davies
Doris J. Dewton
Jerry L. Pfeffer
Paul E. Bloom
R. Dobie Langenkamp
Harry A. Jones
S. Sterling Munro, Jr.
Robert J. Cross
Harry F. Wright
James B. Hammett
William H. Clagett IV
Carl W. Guidice
Anthony L. Liccardi
Martin R. Adams
Edward J. Lievens, Jr.
Harry R. Johnson
Andrew W. Decora
Augustine A. Pitrolo
Sun W. Chun
William W. Burr, Jr.
Thomas G. Frangos
Peter W. House
Sheldon Meyers
Robert L. Ferguson
Julio L. Torres
Robert T. Duff
Francis C. Gilbert
George Weisz
Gregory H. Canavan
Herman E. Roser
Robert L. Morgan
Mahlon E. Gates
J. Ronald Young
Antoinette G. Joseph
Richard H. Williamson
James S. Kane
James E. Leiss
Edwin E. Kintner
Marvin K. Moss
J. Merle Schulman
K. Dean Helms
Gene K. Fleming
John W. Polk
Ronald S. Schwartz
Joseph P. Cappello
David J. Ball
Berton J. Roth
Thomas Anderson
Cleo N. Mitchell, Jr.
Bert Greenglass
Clarence E. Mahan
Junius Hayes III
William G. McDonald
Lawrence R. Anderson
Robert Nordhaus
Kenneth A. Williams
William W. Lindsay

Issued in Washington, D.C. on August 28, 1980.

William S. Heffelfinger,
Director of Administration.

[FR Doc. 80-27145 Filed 9-3-80; 8:45 am]
BILLING CODE 6450-01-M

National Petroleum Council, Subcommittee on Arctic Oil and Gas Resources; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Subcommittee on Arctic Oil and Gas Resources of the National Petroleum Council.

Date and Time: Friday, October 3, 1980—8:30 a.m.

Place: Madison Hotel, Dolly Madison Room, 15th and M Streets, N.W., Washington, D.C.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, 1000 Independence Avenue, S.W., Forrestal Building—Room 8G087, Washington, D.C. 20585, Telephone: 202-252-5187.

Purpose of Parent Committee: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

Tentative Agenda

Discuss the scope of the study to be conducted in response to the Secretary of Energy's request for a study of Arctic area oil and gas development.

Discuss an organizational structure for the study.

Discuss a timetable for completion of the study.

Discuss any other matters pertinent to the overall assignment from the Secretary.

Public Comment (10 minute rule).

Public Participation: The meeting is open to the public. The Chairperson of the Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so,

either before or after the meeting. Members of the public who wish to make oral statements pertaining to the agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 5B180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on August 28, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80-27147 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-FC-80-022]

Powerplant and Industrial Fuel Use Act; Special Temporary Public Interest Exemptions; Public Hearing on Petitions

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice tentatively rescheduling public hearing on petitions for special temporary public interest exemptions.

SUMMARY: On March 21, 1980, the Economic Regulatory Administration (ERA) of the Department of Energy published in the Federal Register (45 FR 18423) notice of receipt of petitions filed pursuant to 10 CFR 508 for special temporary public interest exemptions from the prohibitions of Sections 301(a)(2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*). On the same date, ERA published (45 FR 18425) a proposed order which would grant the requested exemptions pursuant to the authority of Section 311(e) of FUA and 10 CFR 508.

Publication of the notice of receipt of petitions and the proposed order commenced a 45 day comment period pursuant to Section 701 of FUA. Interested persons were also afforded and opportunity to request a public hearing during that same period, which ended on May 5, 1980. The Process Gas Consumers Group, the American Iron and Steel Institute and the Georgia Industrial Gas Group filed written comments and requested a public hearing on the proposed order.

On August 26, 1980, ERA published (45 FR 56867) a notice that the scope of the first hearing day was limited to the procedures governing the hearing and the scope of issues to be considered at the hearing. The notice also stated that there would be no oral or written presentations or examination of hearing participants. Additionally, the notice scheduled September 3, 1980, as the date the hearing would reconvene in Washington, D.C.

Tentative Rescheduling of Public Hearing

On the first hearing day, certain procedural and legal issues were raised by the hearing participants and the presiding officer set the following schedule:

—All preliminary motions by interested persons must be filed on or before August 29, 1980;

—All legal arguments concerning procedural matters and the scope of issues to be considered at the hearing must be filed on or before September 5, 1980;

—The presiding officer will issue his rulings on the various motions, procedural matters and scope of issues on or about September 10, 1980;

—All hearing participants must file prepared testimony by witnesses with the presiding officer, and serve copies upon persons on the service list on or before September 16, 1980;

—The hearing is tentatively set to reconvene in Washington, D.C., on Monday, September 22, 1980, contingent upon the rulings upon the preliminary motions by the presiding officer.

ADDRESSES: All submissions should be sent to the presiding officer Mr. Lawrence Gollomp, c/o FUA Public Hearing Staff, Economic Regulatory Administration, Case Control Unit (FUA), Box 4629, Room 3214, 2000 M Street, N.W., Washington, D.C. 20461.

Docket Number ERA-FC-80-022 should be printed on the outside of the envelope and on the document contained therein.

If the hearing is reconvened on this matter, a Federal Register notice will be published stating the time and location of the hearing.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

August 28, 1980.

[FR Doc. 80-27134 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. EL80-30]

Alaska Power Authority; Declaration of Intention

August 28, 1980.

Take notice that on May 19, 1980, the Alaska Power Authority filed a declaration of intention to construct and operate a hydroelectric facility on Lake Elva Creek near Dillingham, Alaska. The declaration of intention was filed under § 23(b) of the Federal Power Act 16 U.S.C. § 817(b), and requests the Federal Energy Regulatory Commission (FERC) to commence an investigation to determine if a FERC license will be required for the project. Correspondence with the Alaska Power Authority should be directed to: Mr. Eric P. Yould, Executive Director, Alaska Power Authority, 333 West 4th Avenue, Anchorage, Alaska 99501.

The Project would consist of: (1) a rockfill dam, 137 feet high, near the outlet of the existing Lake Elva; (2) Lake Elva Reservoir with a surface are increased to 720 acres and a storage capacity of 29,000 acre-feet at normal maximum water surface elevation 350 feet (msl); (3) a pipeline, 7,300 feet long and varying in diameter from 48 inches to 36 inches; (4) a powerhouse containing two generating units with a total rated capacity of 1,500 kW; and (5) a 24.9-kV, combination transmission line and cable extending from the powerhouse to Aleknagik.

Project power would be used in the communities of Aleknagik and Dillingham.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any coments, protest, or petition to intervene must be filed on or before October 6, 1980. The Commission's

address is: 825 North Capitol Street, NE, Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27048 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-74]

Bennett's Standard, Inc.; Filing of Petition for Review Under 42 U.S.C. 7194

August 26, 1980.

Take notice that Bennett's Standard on December 7, 1979 filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before September 10, 1980, with the Federal Energy Regulatory Commission, 825 North Captiol Street, N.E. Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before September 10, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40 (e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, SW, Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., NE, Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26866 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2322]

Central Maine Power Co.; Application for New License

August 27, 1980.

Take notice that two applications were filed with the Federal Energy Regulatory Commission on August 11, 1980, under the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r) by Central Maine Power Company (Applicant), for (1) an amendment of its existing license, and (2) a new license for it's Shawmut Project, FERC No. 2322. The project is located on the Kennebec River in Kennebec and Somerset Counties, Maine. Correspondence with the Applicant on this matter should be addressed to: Mr. Charles E. Monty, Senior Vice-President, Engineering and Production, Central Maine Power Company, Edison Drive, Augusta, Maine 04336.

Project Description—The Shawmut Project consists of: (1) a 23-foot high, 1,135-foot long concrete gravity dam; (2) a 1,310-acre reservoir with negiligible storage capacity; (3) a forebay; (4) a powerhouse containing six turbine-generator units with a total rated capacity of 4,250 kW; and (5) appurtenant facilities.

Applicant requests that the license for Project No. 2322 be amended by changing the expiration date of the license from December 31, 1993, to coincide with the date of issuance of a new 50 year license for the redevelopment and continued operation of the Shawmut Project. Applicant also proposes to install, under the new license, two additional turbine-generator units with a total rated capacity of 3,440 kW adjacent to the existing powerhouse and utilizing the existing forebay, dam and reservoir. The redeveloped project would continue to be operated as a run-of-the-river facility and would generate an additional 20 million kWh annually saving the equivalent of 32,840 barrels of oil or 9260 tons of coal. Energy generated at the project would continue to be distributed to the Applicant's customers.

Project No. 2322 would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act. The Applicant has calculated that the estimated net investment in the project would amount to $486,746 as of December 31, 1979. The Applicant's estimated severance damages as of December 31, 1979, would amount to $6,900.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before *November 10, 1980,* either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than *March 10, 1981.* A notice of intent must conform with the requirements of 18 C.F.R. § 4.33(b) and (c), *as amended,* 44 *Fed. Reg.* 61328 (October 25, 1979). A competing application must conform with the requirements of 18 C.F.R. § 4.33(a) and (d), *as amended,* 44 *Fed. Reg.* 61328 (October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordane with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed or or before November 10, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27038 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-499]

Cities Service Gas Co.; Application

August 28, 1980.

Take notice that on August 14, 1980, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP80-499 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing a sale of natural gas to El Paso Natural Gas Company (El Paso) and the construction and operation of facilities necessary therefor and for permission and approval to abandon certain facilities to be replaced by the proposed facilities, all as more fully set forth in the application which is

on file with the Commission and open to public inspection.

Applicant states that because of substantially increased gas supplies and significantly reduced demand, it now has a gas supply surplus while El Paso is projecting a gas supply curtailment in the up-coming heating season. Applicant states that a limited-term gas sales agreement between it and El Paso will be executed soon and will provide for sale of the surplus gas on a best-efforts basis subject to Applicant's market and storage requirements and El Paso's decision as to whether it wishes to purchase the gas. Applicant contends that the proposed sale would reduce the risk that it would incur take-or-pay penalties while allowing it to continue to attach new long-term gas supplies to its system.

Applicant proposes to sell natural gas to El Paso for two years with an average daily quantity of 150 million Btu during the first contract year and an average daily quantity of 100 million Btu during the second contract year.

Applicant would sell the gas to El Paso at a rate equal to the maximum lawful price per million Btu for gas authorized by Section 102 of the Natural Gas Policy Act of 1978, less transportation costs incurred to deliver the gas to El Paso's system.

Applicant would deliver the subject gas to Natural Gas Pipeline Company of America (NGPL) for El Paso's account at points of interconnection between Applicant's and NGPL's systems in Ford County and Barton County, Kansas. NGPL would then transport the gas to El Paso for delivery at an existing interconnection in Lea County, New Mexico.

In order to provide the necessary capacity for the delivery of the contract volumes of gas to NGPL for the account of El Paso, Applicant proposes to construct and operate a tap on its Kansas-Hugoton 26-inch transmission pipeline in Ford County, Kansas. Applicant further proposes to abandon by reclaim approximately 0.6 mile of 8-inch pipeline, measuring, and appurtenant facilities, and replace them by constructing approximately 0.6 mile of 16-inch pipeline, measuring, and appurtenant facilities also in Ford County. Applicant also proposes to construct and operate a tap on its Rawlins-Hesston 18-inch transmission pipeline and to construct and operate 0.1 mile of 12-inch pipeline, measuring, and appurtenant facilities, all in Barton County, Kansas.

Applicant estimates the cost of the proposed facilities to be $349,289 which would be financed from treasury cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 18, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27039 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-497]

El Paso Natural Gas Co.; Application

August 28, 1980.

Take notice that on August 12, 1980, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP80-497 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon the use and operation as a storage facility of the Rhodes Reservoir Gas Storage Unit (Rhodes Reservoir) located in Lea County, New Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that since 1945, with a period of dormancy between 1966 and 1973, Rhodes Reservoir, located in Southeast Lea County, New Mexico, has been used as a natural gas storage field necessary to make up deficiencies when current market demands exceeded flowing gas supply. It is stated that during the 1978-79 winter season significantly increased high priority demand and unanticipated interruptions in gas flow required Applicant to withdraw gas from Rhodes Reservoir for an extended period at essentially maximum daily rates. However, Applicant states, although first day deliverability had been expected to be as high as 123,000 Mcf, actual first day deliverability proved to be only 83,000 Mcf. It is stated that preliminary evaluation of this operational result indicated that the failure to achieve the anticipated daily withdrawal rate was caused by the lessening of pressures over time in the strata at the base of the storage/withdrawal wells. Applicant subsequently commenced the withdrawal of the remaining working gas inventory in Rhodes Reservoir for transportation and delivery for the account of Clay Basin Storage Company and eventual injection into the Clay Basin Storage Field pursuant to Clay Basin Interim Storage Arrangements.

Applicant states that it could bring Rhodes Reservoir to full operational status as a storage project at an additional investment of approximately $21,915,000 and that the earliest the reservoir could be restored would be for the beginning of the 1983-84 winter season.

Applicant states that it has decided to terminate the use of Rhodes Reservoir as a storage facility for the time being while retaining the right to propose later restoration should circumstances so dictate. Specifically Applicant proposes to abandon the purification facility, approximately 24.22 miles of injection/withdrawal field pipeline, 35 injection/withdrawal meters with appurtenances, and 70 standard orifice meter runs with appurtenances.

Applicant contends that the protection of high priority service continues to be a major concern and that viable alternatives to the continued use of Rhodes Reservoir exist that provide the required measure of protection more efficiently and at a lower cost. Moreover, Applicant avers that the existing Rhodes Reservoir facilities would not be physically removed after the storage operation has been abandoned but would instead be

retained in place for use in the production and gathering of gas from Rhodes Reservoir.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 18, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27040 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-72]

Faith Oil Co.; Filing of Petition for Review Under 42 U.S.C. 7194

August 26, 1980.

Take notice that Faith Oil Company on July 9, 1979 filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before September 10, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before September 10, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e) (3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue SW, Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St. NE, Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26867 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3093]

Franklin Electric Light & Power Co.; Granting Intervention

August 26, 1980.

On March 20, 1980, the Franklin Electric Light and Power Company (Applicant) filed an application for a short-form minor license for the proposed Franklin Falls Project No. 3093, to be located on the Winnipesaukee River in Merrimac County, New Hampshire. Public notice of the filing of the application was issued on May 14, 1980 with July 23, 1980 as the last date for filing protests or petitions to intervene.

On July 23, 1980, the Franklin Industrial Complex, Inc. (FICI) filed a petition to intervene. In its petition, FICI states that: (1) it is the owner of the dam and the dam site which form part of the proposed project; (2) the Applicant only possesses an easement to the dam and dam site; (3) the easement terms will be violated if the proposed project is implemented; (4) FICI may incur serious liability which the Applicant's plans do not safeguard against; (5) the proposed project would cause FICI to lose 25 percent of its generating capacity at an operating hydro facility located immediately upstream from the dam for Project No. 3093; and (6) FICI has an interest which may be directly affected by the Commission's actions and which is not adequately represented by the existing parties.

No response to the petition has been filed with the Commission.

Intervention by the petitioner appears to be in the public interest.

Pursuant to Section 375.302 of the Commission's Regulations, 45 Fed. Reg. 21216 (1980), *amending* 18 C.F.R. 3.5(a) (1979), the Franklin Electric Light and Power Company is permitted to intervene in this proceeding subject to the Commission's Rules and Regulations under the Federal Power Act. Participation of the Intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in its petition to intervene. The admission of the Intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any order entered in this proceeding.

Kenneth F. Plumb.

Secretary.

[FR Doc. 80-27032 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-682]

Hartford Electric Light Co.; Filing

August 26, 1980.

The filing Company submits the following:

Take notice that on August 20, 1980, the Hartford Electric Light Company (HELCO) tendered for filing pursuant to Section 205 of the Federal Power Act and the implementing provisions of Section 35.13 of the Commission's Regulations thereunder, an amendent to its currently effective Rate Schedule FERC No. 167.

By the tendered amendatory agreement, HELCO proposes an increase in the capacity and energy charges to be paid by HELCO to Montaup Electric Company (Montaup) for any capacity and the energy associated therewith provided from Montaup's system during any Weekly Cycle (as defined at Section 3 of HELCO's Rate Schedule FERC No. 167).

HELCO requests that the Commission waive its notice requirements pursuant to Section 35.11 of its Regulations in

order to allow the tendered amendatory agreement to become effective as proposed on July 1, 1980. HELCO has further requested the Commission to waive certain portions of Section 35.13 of the Commission's Regulations for good cause shown. Montaup has concurred in HELCO's filing as evidenced by a properly executed Certificate of Concurrence.

Copies of this filing have been served by HELCO upon Montaup.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27033 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2961]

Hotel Baker; Application for Short-Form License (Minor)

August 26, 1980.

Take notice that Hotel Baker (Applicant) filed on August 24, 1979, an application for license [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for the rehabilitation of a water power project to be known as Hotel Baker Project No. 2961. The project would be located on the Fox River in the Town of St. Charles, Kane County, Illinois. Correspondence with the Applicant should be directed to: Mr. John Grotberg, General Manager, Hotel Baker, a unit of the Lutheran Social Services of Illinois, 100 W. Main Street, St. Charles, Illinois, 60174.

Project Description—The project would consist of: (1) an existing 293-foot long and 10-foot high masonry dam; (2) a small reservoir, 5.5 miles long; (3) an existing approach channel, located on the right abutment of the dam, terminating at the north wall of the hotel building; (4) an existing intake structure located under the hotel; (5) an existing generating room, 110 feet long and 43 feet wide, located in the basement of the hotel, containing 2 generating units with a total installed capacity of 143 kW; (6) an existing masonry arch conduit tailrace, 175 feet long, terminating into a 42-inch diameter concrete pipe 65 feet long; and (7) appurtenant facilities. The estimated annual generation of the project would be 1200 MWh.

Purpose of Project—Project energy would be used by the hotel to meet its service load.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before October 24, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 23, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (*as amended* 44 *Fed. Reg.* 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR. 4.33(a) and (d), (*as amended*, 44 *Fed. Reg.* 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission Rules. Any comments, protest, or petition to intervene must be filed on or before October 24, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27034 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-75]

Huber's, Inc., d.b.a. Budget Rent-a-Car of Louisville; Filing of Petition for Review Under 42 U.S.C. 7194

August 26, 1980.

Take notice that Huber's, Inc., d.b.a. Budget Rent-a-Car of Louisville on January 16, 1980 filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before September 10, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before September 10, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H–025, 1000 Independence Avenue SW., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room

1000, 825 North Capitol St. NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26868 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2930]

Idaho Power Co.; Application for License (Major)

August 27, 1980.

Take notice that on June 6, 1980, the Idaho Power Company (Applicant) filed an application [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)—825(r)] for a major license for the unconstructed North Fork Payette River Project No. 2930. Correspondence with the Applicant should be directed to: Mr. Lee S. Sherline, Leighton & Sherline, Suite 803, 1701 K Street, N.W., Washington, D.C. 20006. The proposed project would be located on the North Fork of the Payette River in Boise, Valley, and Gem Counties Idaho. Lands of the United States that would be affected are lands administered by the Bureau of Land Management and the Boise National Forest.

The proposed North Fork Payette River Project would consist of: (1) the Ferncroft development comprising a diversion weir, to be located about three miles downstream of Smith's Ferry, which would divert up to 2,550 cubic feet per second (cfs) of water into a 38,000-foot long power tunnel terminating at an underground surge tank; a vertical penstock connected to an underground powerhouse containing three generating units with a total installed capacity of 174 MW; and a tailrace tunnel returning the turbine discharge to the river; (2) the Banks development, comprising a diversion weir, to be located must downstream from the tailrace outlet of the Ferncroft development, which would divert up to 2,550 cfs of water into a 22,000-foot long power tunnel terminating at an underground surge tank; a vertical penstock connected to an underground powerhouse containing three generating units with a total installed capacity of 99 MW; and a tailrace tunnel returning the turbine discharge to the river; and (3) a 31-mile long transmission line extending from a switchyard adjacent to the Banks powerhouse, to the proposed Shellrock Canyon Switching Station.

The proposed project would have a total rated capacity of 273 MW and an average annual generation of 1,234,339 MWh at an estimated cost of $261,185,600. Power produced by the project would be utilized in the area served by the Applicant.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before October 6, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 4, 1981. A notice of intent must conform with the requirements of 18 C.F.R. § 4.33(b) and (c), *as amended*, 44 Fed. Reg. 61328 (October 25, 1979). A competing application must confrom with the requirements of 18 C.F.R. § 4.33(a) and (d), *as amended*, 44 *Fed. Reg.* 61328 (October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before October 6, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27041 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-688]

Iowa Public Service Co.; Notice of Filing

August 27, 1980.

Take notice that on August 21, 1980, Iowa Public Service Company (IPS) tendered for filing four Exhibits. They are as follows:

1. *Exhibit A*—Amendment to Service Schedule A, Emergency Service, under the Interconnection Agreement between Omaha Public Power District and Iowa Public Service Company, dated March 18, 1958, as amended and supplemented, designated as Supplement No. 4 to Rate Schedule FPC No. 10.

2. *Exhibit B*—Amendment to Second Revised Schedule B, Seasonal Participation Power Interchange Service; Service Schedule C, Emergency and Scheduled Outage Energy Interchange Service; First Revised Service Schedule H Peaking Power Interchange Service; and First Revised Service Schedule I, Short Term Power Interchange Service, under the Interconnection and Operating Agreement Corn Belt Power Cooperative and Iowa Public Service Company, dated October 28, 1976, as supplemented, designated respectively as Supplement No. 5, Supplement No. 6, Supplement No. 11 and Supplement No. 12 to Rate Schedule FPC No. 59.

3. *Exhibit C*—Service Schedule D, Emergency Energy, under the Electric Interchange Agreement between Iowa Public Service Company and Board of Trustees of the Municipal Electric Utility of Cedar Falls, Iowa, dated January 8, 1971, as supplemented, designated as Supplement No. 4 to Rate Schedule FPC No. 51.

4. *Exhibit D*—Service Schedule B, Seasonal Participation Power Interchange Service; Service Schedule C, Emergency and Schedule Outage Energy Interchange Service; Service Schedule H, Peaking Power Interchange Service; and Service Schedule I, Short Term Power Interchange Service, under the Interconnection Agreement between Iowa Public Service Company and the City of West Bend, Iowa, dated March 24, 1978, as supplemented, designated respectively as Supplement No. 2, Supplement No. 3, Supplement No. 5 and Supplement No. 6 to Rate Schedule FERC No. 61.

IPS indicates that this filing is made in response to Commission Order No. 84, issued May 7, 1980 in Docket No. RM79-29.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 19, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27042 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES80-72]

Kansas Power & Light Co.; Notice of Application

August 27, 1980.

Take notice that on August 22, 1980, The Kansas Power and Light Company (Applicant) filed an application seeking authority pursuant to Section 204 of the Federal Power Act to issue up to $70,000,000 in the aggregate principal amount of short-term, unsecured Promissory Notes in the form of commercial paper, on or before November 30, 1981, with a final maturity date of not later than November 30, 1982.

The proceeds will be used to finance in part Applicant's construction program to November 30, 1981.

Any person desiring to be heard or to make any protest with reference to the application, should, on or before September 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27043 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-680]

Kansas Power & Light Co.; Notice of Filing

August 27, 1980.

The filing Company submits the following:

Take notice that on August 20, 1980, Kansas Power and Light Company (KP&L) tendered for filing Amendment 1 to Service Schedule B, Emergency Service, to rate schedule FPC No. 3 between KP&L and Omaha Public Power District (OPPD). The proposed effective date is August 10, 1980, and KP&L requests that the Commission waive the notice requirements as allowed in Section 35.11 of its regulations. In addition, KP&L states that copies of the Amendment have been mailed to OPPD and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 19, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27044 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1860]

Robert L. Loughhead; Order Granting Authority To Hold Certain Interlocking Positions

Issued August 28, 1980.

On January 15, 1979, Mr. Robert L. Loughhead (Applicant), submitted an application pursuant to section 305(b) of the Federal Power Act, to hold the interlocking positions of Director of Ohio Edison Company (Edison)—a jurisdictional utility—and Group Vice President/Steel of Copperweld Corporation (Copperweld)—a manufacturer of electrical equipment. Mr. Loughhead was elected to the latter position on April 1, 1978; he was elected to the former position on December 19, 1979, pending our authorization.

Mr. Loughhead's application states that as a Director of Edison he would perform the duties that are customarily performed by an individual in that position. As a Vice President of Copperweld, Mr. Loughhead's application acknowledges that Edison purchases electrical wire from Copperweld.

Notice of Mr. Loughhead's application was issued on February 16, 1979,[1] with comments on or before February 20, 1979. On April 22, 1980, Edison submitted a petition to intervene out of time. In its petition, Edison has supplied us with 1978 and 1979 sales data concerning the Edison-Copperweld relationship.

On July 28, 1980, Edison responded to a request for supplemental information concerning the nature of the materials that Copperweld sells to Edison. In its filing, Edison states that it began purchasing a copper alloy wire manufactured by Copperweld in 1971 because of the limited availability and high cost of galvanized steel wire. However, Edison notes that it is currently preparing an updated cost and engineering study to determine whether it should resume purchasing galvanized steel wire rather than the Copperweld wire. Edison also buys steel reinforced wire called "alumoweld" from Copperweld. The utility states that "alumoweld" offers cost advantages that are not offered by other products.

Discussion

We find that Edison's participation in this proceeding may be in the public interest. Accordingly, we shall grant its petition to intervene out of time.

Mr. Loughhead's application does not challenge the fact that the positions that he wishes to hold are within the purview of the Federal Power Act and our regulations. *See* Federal Power Act § 305(b), 16 U.S.C. § 825d(b) (1976); 18 CFR § 45.2. Because Copperweld is an electric equipment supplier of Edison,[2] our approval is required in order for the applicant to hold the positions of Vice-President of Copperweld and Director of Edison.

We have held that where the relationship between a utility and an electrical equipment supplier is of a *de minimis* character, the public interest would best be served by granting the application to hold interlocking positions, while imposing an annual reporting requirement upon the applicant in order to ensure continued consistency with statutory requirements. *E.g., Charles T. Fisher, III,* Docket No. ID-1758 (October 25, 1979). The Commission finds that the existing relationship between Edison and Copperweld is *de minimis* in nature. For example, we note that Edison's purchases from Copperweld in 1978 constituted 0.79% of Edison's non-fuel purchases. In 1979, that figure decreased to 0.43%. Accordingly, we shall grant Mr. Loughhead's application, subject to the reporting requirements identified below.

The Commission orders:

(A) Until further order of the Commission, Applicant is authorized to hold the positions of Vice-President/Steel of Copperweld and Director of Edison, subject to Part 45 of the Commission's regulations (18 CFR § 45 *et seq.*), and further subject to the

[1] 44 FR 10117 (1979).

[2] There is no question that Edison is a jurisdictional electric utility. *See Ohio Edison Co.,* 4 F.P.C. 720, 722 (1944).

provisions of ordering paragraphs (B) and (C) below.

(B) On or before April 30, 1981, and on or before April 30 of every year thereafter during which Applicant holds the positions authorized by this order, Applicant shall submit a report disclosing, for the preceding year, the nature and dollar amount of any electrical equipment supplied by Copperweld, or any subsidiary of Copperweld, either directly or indirectly, or through wholesale or retail suppliers, or any other intermediary, to Edison.

(C) The Commission reserves the right to require Applicant to make further showings that neither public nor private interests will be adversely affected by the continued holding of the interlocking positions authorized by this order.

(D) Edison is hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* that participation of the intervenor shall be limited to matters set forth in its petition to intervene; and *provided, further,* that the admission of the intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(E) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27049 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES80-71]

Montana-Dakota Utilities Co.; Notice of Application

August 27, 1980.

Take notice that on August 22, 1980, Montana-Dakota Utilities Company (Applicant), filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an order authorizing the issuance of up to $40,000,000 of promissory notes that are to be issued in the form of ordinary unsecured promissory notes (hereinafter sometimes referred to as the "Notes"). The Notes will be dated as of the respective dates of their issue and will be due no later than September 30, 1982. The Notes will be issued pursuant to a revolving credit agreement.

The principal use of the proceeds from the issuance of the Notes is to repay short-term borrowings incurred to finance the Applicant's 1980 utility capital requirements.

Any person desiring to be heard or to make any protest with reference to said Application should on or before September 15, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27045 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA80-2-55]

Mountain Fuel Resources, Inc.; Tariff Sheet Filing

August 25, 1980.

Take notice that on August 15, 1980, Mountain Fuel Resources, Inc. (Resources) tendered for filing and acceptance, Second Revised Sheet Nos. 24 through 28 as parts of its FERC Gas Tariff, Original Volume No. 1.

On June 20, 1980, the Commission issued an order conditioning its acceptance of Resources' PGA filing in Docket No. TA80-2-55 upon Resources' filing revised tariff sheets modifying the PGA clause of Resources' Tariff to conform with Order No. 49 issued September 28, 1979, and Order No. 49-A issued December 27, 1979, in Docket No. RM79-14 and Section 154.38 of the Commission's Regulations. The tariff sheets were ordered to be effective December 1, 1979. Second Revised Sheet Nos. 24 through 28 reflect the Commission ordered modifications.

The proposed revisions will not increase Resources' revenues from jurisdictional sales and service.

Any person desiring to be heard or to make any protest with reference to said filing should on or before September 5, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing must file petitions to intervene in accordance with the Commission's Rules. Resources' tariff filing is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26369 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3176]

New Hampshire Water Resources Board; Amended Notice of Application for Preliminary Permit

August 26, 1980.

Take notice that the New Hampshire Water Resources Board (Applicant) filed on June 26, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for the proposed Project No. 3176 to be known as the Murphy Dam Project located on the existing State of New Hampshire owned Murphy Dam on the Connecticut River, near the Town of Pittsburg in Coos County, New Hampshire. Correspondence with the Applicant should be addressed to: Mr. George M. McGee, Sr., New Hamsphire Water Resources Board, 37 Pleasant Street, Concord, New Hampshire 03301. This amended notice changes the date by which comments, protests, or petitions to intervene must be filed.

Purpose of Project—Energy from Project No. 3176 would be sold to the Public Service Company of New Hampshire.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform surveys and geological investigations, determine the economic feasibility of the project, reach final agreement on the sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be approximately $400,000.

Project Description—Project No. 3176 would consist of: (1) the existing earth embankment dam 2,100 feet long and 100 feet high; (2) an existing 300-foot long, concrete spillway discharging through a rock channel into the river; (3) Lake Francis, having an area of 2,020 acres and a storage capacity of 96,000 acre-feet at normal maximum surface elevation of 1,385 feet; (4) an existing 13-foot diameter steel-lined concrete conduit that withdraws water from the reservoir through a gate house; (5) an 8-foot diameter penstock approximately

300 feet long; (6) a 30 by 40-foot powerhouse; (7) a 450-foot long tailrace; (8) a turbine/generator system with an installed capacity of 2,200 kW; and (9) required electrical equipment for connection to existing transmission lines. The Applicant estimates annual generation would average 12,850,000 kW.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to the one filed by the Public Service Company of New Hampshire on December 4, 1979, Project No. 3006, under 18 C.F.R. 4.33 (as amended, 44 FR 61328, October 25, 1979), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard to or make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriation action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petitions to intervene must be filed on or before October 10, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27035 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-500]

Northern Natural Gas Co., Division of InterNorth, Inc.; Notice of Application

August 28, 1980.

Take notice that on August 14, 1980, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP80-500 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 72 small volume sales measuring stations and the sale and delivery of additional volumes of natural gas in the states of Montana, South Dakota, Minnesota, Iowa, Nebraska, Kansas, Oklahoma, and Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to provide service to right-of-way grantors whose easements provide for the contractual right to gas service as partial consideration for the easement to construct and operate pipeline facilities across their property. It is stated that such service would be made to small volume [1] industrial, commercial, and residential customers.

Applicant proposes to install and operate 68 delivery stations in South Dakota, Minnesota, Iowa, Nebraska, Kansas, and Texas for deliveries of gas to be resold by People's Natural Gas Company, Division of InterNorth, Inc. (Peoples), from People's presently authorized contract demand.

Applicant proposes to install and operate two delivery stations in Oklahoma for deliveries of gas to be resold by Southern Union Gas Company (So. Union). This would result in a 600 Mcf increase in annual sales to So. Union under Applicant's Rate Schedule X-46, it is asserted.

Further, Applicant proposes to install and operate two delivery stations for deliveries of gas for direct sale to two Montana customers pursuant to terms of farm tap service contracts between Applicant and the new customers.

Applicant more fully describes the 72 proposed small volumes sale measuring stations including locations, estimated peak day and annual sales, and use as follows:

[1] As defined in Applicant's Gas Tariff, customers with maximum daily gas requirements under 200 Mcf are considered small volume customers.

Right-of-way grantor	Legal description Sec-Twp-Rge-county-state	Estimate sales-Mcf		Primary end use	Cost of facilities
		Peak day	Annual		
Northern Natural Gas Company (Direct):					
Donoven, Keith J.	20-34-13-Hill-MT	3.2	295	Res. heat	$1,120
Olson, Walter M.	5-26-17-Chouteau-MT	93.0	6,650	Irrigation	1,310
Totals, Northern (Direct)		96.2	6,945		2,430
Peoples Natural Gas Company, Division of InterNorth, Inc.:					
Anderson, David E.	34-118-32-Meeker-MN	108.0	1,791	Crop dryer	1,410
Anderson, G. Dale	6-88-8-Buchanan-IA	25.0	905	Crop dryer	1,860
Anderson, John P.	22-96-23-Isanti-MN	2.0	200	Res. heat	230
Amdorfer, Kenneth	30-103-17-Mower-MN	20.0	1,100	Crop dryer	2,040
Bartz, Daryl G.	20-103-31-Martin-MN	55.0	1,372	Crop dryer	1,880
Bosier, James R.	1-81-26-Dallas-IA	1.6	195	Res. heat	1,630
Bovy, Peter	35-86-13-Black Hawk-IA	2.0	139	Res. heat	900
Bruellman, Don	25-95-31-Palo Alto-IA	20.0	606	Crop dryer	1,830
Cabelka, Charles	21-88-9-Buchanan-IA	1.5	200	Res. heat	910

Right-of-way grantor	Legal description Sec-Twp-Rge-county-state	Estimate sales-Mcf		Primary end use	Cost of facilities
		Peak day	Annual		
Carlson, Rodney	25-121-28-Wright-MN	2.0	165	Res. heat	940
Carroll, Lester	15-108-18-Dodge-MN	33.0	735	Crop dryer	1,860
Collingsworth, J. P.	1-2-WCRR-Ochiltree-TX	1.2	158	Res. heat	1,910
Curtis, Murel	22-32-37-Stevens-KS	1.5	180	Res. heat	780
Dailey, Kenneth	33-106-47-Moody-SD	30.0	1,132	Crop dryer	2,040
Elbert, Virgil P.	6-95-31-Palo Alto-IA	40.0	1,350	Crop dryer	2,120
Gerber, Robert D.	24-105-14-Olmstead-MN	84.0	2,050	Crop dryer	1,220
Glenapp, Elvin	13-88-6-Delaware-IA	1.5	160	Res. heat	910
Goergen, James P.	3-101-16-Mower-MN	20.0	765	Crop dryer	1,860
Grafenberg, Ronald	30-95-8-Fayette-IA	9.0	517	Crop dryer	1,420
Grocott, Glenn	4-103-52-Minnehaha-SD	30.0	1,132	Crop dryer	1,860
Hackrott, LeRoy	21-100-50-Lincoln-SD	30.0	1,132	Crop dryer	860
Heinemann, Don	1-92-12-Bremer-IA	1.7	175	Crop dryer	1,420
Huffman, Wesley N.	9-93-37-Buena Vista-IA	2.0	190	Res. heat	1,500
Ingvalson, James	15-114-22-Scott-MN	2.0	198	Res. heat	1,250
Jenson, Ronald F.	19-104-21-Freeborn-MN	30.0	1,200	Crop dryer	1,860
Johnson, Ralph W.	3-103-6-Houston-MN	84.0	2,100	Crop dryer	2,040
Jones, Vron A.	31-102-34-Jackson-MN	54.0	1,372	Crop dryer	2,080
Kennen, Donald L.	10-36-21-Chisago-MN	3.0	200	Res. heat	1,350
Klein, Ronald P.	11-104-50-Minnehaha-SD	30.0	1,132	Crop dryer	1,830
Klemenhagen, Harold	6-112-19-Dakota-MN	2.0	187	Res. heat	1,250
Larson, Lester	28-81-38-Shelby-IA	1.7	330	Res. heat	1,390
Laumann, James	20-116-26-Carver-MN	20.0	1,740	Crop dryer	1,440
Lene, Leroy O.	1-32-26-Sherburne-MN	3.0	200	Res. heat	1,350
Lippert, M. J.	2-116-35-Renville-MN	40.0	722	Crop dryer	1,120
Mans, Lawrence	12-40-21-Pine-MN	3.0	200	Res. heat	1,350
McAreavey, John D.	5-103-52-Minnehaha-SD	30.0	1,592	Crop dryer	1,800
McEntee, Dennis	21-14-1-Polk-NE	2.1	185	Res. heat	1,370
Mersman, Roy	35-84-22-Story-IA	1.5	238	Res. heat	1,630
Meyer, D & A Farms	5-112-23-LeSueur-MN	75.0	2,529	Crop dryer	2,320
Miller, Dwight	15-104-22-Freeborn-MN	70.0	1,300	Crop dryer	2,110
Moenck, Harold	29-102-6-Houston-MN	60.0	3,805	Crop dryer	2,040
Montagne, Oliver R.	14-90-49-Union-SD	30.0	1,617	Crop dryer	2,290
Nichols, Harold	34-28-31-Haskell-KS	33.6	3,800	Irrigation	1,690
O'Neal, James K.	11-17-7-Dodge-NE	1.5	162	Res. heat	1,350
Pestorious, Gerald	10-102-22-Freeborn-MN	3.0	200	Res. heat	900
Petersen, Donald M.	30-97-33-Palo Alto-IA	15.0	450	Crop dryer	1,670
Pettit, H. R.	18-96-30-Kossuth-IA	45.0	1,368	Crop dryer	2,120
Pries, Arthur L.	27-107-12-Olmsted-MN	84.0	2,070	Crop dryer	1,220
Rebischke, Dennis J.	21-98-49-Lincoln-SD	2.0	190	Shop heat	1,640
Recker, Carl L.	18-91-8-Fayette-IA	12.0	217	Crop dryer	1,420
Relitz, Harvey	3-26-6-Thurston-NE	1.0	147	Res. heat	1,990
Remold, Harold	33-109-18-Goodhue-MN	30.0	270	Crop dryer	1,860
Rupprecht, David	16-106-9-Winona-MN	60.0	3,811	Crop dryer	1,860
Rysdam, Richard	8-39-22-Pine-MN	3.0	200	Res. heat	1,350
Sakry, Richard	18-36-30-Benton-MN	11.0	640	Crop dryer	1,450
Sandquist, Dellis J.	22-36-23-Isanti-MN	14.0	760	Crop dryer	1,660
Sanford, Douglas C.	20-36-26-Mille Lacs-MN	14.0	760	Crop dryer	1,640
Schleusner, Larry	13-105-14-Olmsted-MN	2.0	200	Res. heat	1,530
Schneider, Thomas W.	33-88-13-Black Hawk-IA	35.0	2,012	Crop dryer	1,780
Schramm, Roger	25-104-18-Mower-MN	35.0	1,020	Crop dryer	1,220
Simonson, Sherman	1-104-16-Mower-MN	2.0	330	Res. heat	1,280
Sunderman, Lucille	6-111-25-LeSueur-MN	3.0	185	Res. heat	1,250
Taylor, James P.	12-18-10-Washington-NE	1.2	138	Res. heat	1,510
Tolmie, Frank	7-106-10-Winona-MN	2.0	200	Res. heat	1,500
Urban, Willard J.	27-117-28-McLeod-MN	1.7	178	Res. heat	860
Wiese, Robert E.	36-97-38-Clay-IA	16.0	1,132	Crop dryer	1,820
Withers, Charles	31-30-33-Haskell-KS	33.6	3,800	Irrigation	1,240
Zumhof, Wayne F.	6-88-2-Dubuque-IA	2.0	145	Res. heat	1,280
Total Peoples Natural		1,524.9	61,552		104,350
Southern Union Gas Company:					
Bailey, LaRoy V.	4-22-23-Ellis-OK	1.5	300	Res. heat	860
Cook, Wade	36-27-22-Harper-OK	1.5	300	Res. heat	860
Total Southern Union		3.0	600		1,720
Totals, all projects		1,624.1	69,097		
Total costs, all projects					106,760

Any person desiring to be heard or to make any protest with reference to said application should on or before September 18, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no

petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27046 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA 81-1-37; (PGA 81-1, IPR 81-1)]

Northwest Pipeline Corp.; Change in Rates Pursuant to Purchased Gas Cost Adjustment

August 26, 1980.

Take notice that Northwest Pipeline Corporation, on August 15, 1980, tendered for filing a proposed change in rates applicable to service rendered under rate schedules affected by and subject to Article 16, Purchased Gas Cost Adjustment Provision ("PGAC"), contained in its FERC Gas Tariff, First Revised Volume No. 1. Such change in rates is for the purpose of (1) reflecting changes in Northwest's cost of purchased gas which will become effective during the period October 1, 1980 through March 31, 1981, applied to volumes purchased for the twelve (12)-month period ending June 30, 1980, (2) its change in unrecovered purchased gas costs since Northwest's prior PGAC filing dated February 15, 1980; and (3) projecting incremental surcharges to be assessed Northwest's affected direct and sales for resale customers pursuant to Order 49.

The current PGAC adjustment, for which notice is given herein, aggregates to an decrease of 2.430¢ per therm in all rate schedules affected by and subject to the PGAC. The annualized change in Northwest's purchased gas cost aggregates an increase of $10,970,304. Northwest proposes to recover, through a surcharge, the adjusted balance of $16,476,426 in its FERC Account No. 191, as of June 30, 1980. The proposed change in rates from the PGAC and the other changes proposed by Northwest would result in a net decrease in its annual revenues from jurisdictional sales and service of $93,310,813 exclusive of special surcharge credit adjustments.

Northwest is concurrently filing a notice of change in rates applicable to Section 13.7, Changes in Rates to Reflect Curtailment Credits, contained in its First Revised Volume No. 1 Tariff and a notice of change in rates pursuant to the advance payments tracking provision in its Stipulation and Agreement in Settlement at Docket No. RP79-57. In accordance with Article 13.7 contained in the aforementioned tariff, and Article VIII of the Stipulation and Agreement the current rate adjustments under the Demand Charge Credit Adjustment provision and Advance Payment Tracker Provision are to become effective on Northwest's PGAC adjustment date. Accordingly, all three rate adjustments are reflected on the tendered First Revised Sheet No. 10 which is proposed to become effective on October 1, 1980. Northwest also tendered for filing and acceptance First Revised Sheet Nos. 10-A and 10-B. First Revised Sheet No. 10-A sets forth a new form to eliminate adjustments not applicable to Rate Schedule LS-1, and First Revised Sheet No. 10-B sets forth revised projected incremental pricing surcharges to become effective October 1, 1980 as part of the instant filing.

Northwest has also included as part of this instant filing Twenty-seventh Revised Sheet No. 10 and Second Revised Sheet Nos. 10-A and 10-B to its Original Volume No. 1 Tariff. Northwest filed its First Revised Volume No. 1 Tariff August 1, 1980 and requested a September 1, 1980 effective date. Should the Commission not make Northwest's First Revised Volume No. 1 effective prior to October 1, 1980, Northwest requested that Twenty-seventh Revised Sheet No. 10 and Second Revised Sheet Nos. 10-A and 10-B be accepted effective October 1, 1980.

A copy of this filing has been served on all parties on record in Docket No. RP72-154, upon all jurisdictional customers, and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Sept. 19, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27036 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3232]

Boro of Oakland, Pa.; Application for Preliminary Permit

August 26, 1980.

Take notice that the Boro of Oakland, Pennsylvania (Applicant) filed on July 1, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3232 to be known as the Oakland Project located on the Susquehanna River in Susquehanna County, Pennsylvania. Correspondence with the Applicant should be directed to: Mr. Thomas C. H. Webster, 2629 McDowell Road, St. Thomas, Pennsylvania 17252.

Project Description—The proposed project would consist of: 1) the existing Oakland dam, 567 feet long, and 9.5-feet high, improved by a concrete crown and apron; 2) a powerhouse, 20 by 55 feet, housing; 3) four 750-kW generating units operating under a 9.5-foot head; 4) an upgraded tailrace 179 feet long; and 5) a 33-kW transmission line 150 feet long.

Applicant estimates annual generation would average 12,220,000 kWh.

Purpose of Project—Applicant proposes to sell all project power to the Pennsylvania Electric Company.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform surveys and geological investigations, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local

government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be $30,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before October 6, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than December 5, 1980. A notice of intent must conform with the requirements of 18 C.F.R. § 4.33 (b) and (c), *as amended*, 44 *Fed. Reg.* 61328 (October 25, 1979). A competing application must conform with the requirements of 18 C.F.R. § 4.33 (a) and (d), *as amended*, 44 *Fed. Reg.* 61328 (October 25, 1979).

Comments, Protests or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R., § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be filed on or before October 6, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27030 Filed 9-3-80, 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP80-489]

Panhandle Eastern Pipe Line Co. and Trunkline Gas Co.; Notice of Application

August 28, 1980.

Take notice that on August 8, 1980, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, and Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP80-489 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants herein propose to transport and redeliver to Northern volumes of gas purchased by Northern from Eugene Island Block 39, offshore Louisiana. It is stated that pursuant to a July 10, 1980, transportation and sales agreement between Applicants and Northern, Trunkline would receive the gas from Michigan Wisconsin Pipe Line Company at a point of delivery in St. Mary Parish, Louisiana, and would redeliver the gas for Northern's account at Trunkline's Longville, Louisiana, compressor station in Beauregard Parish, Louisiana. Applicants propose under an earlier authorized transportation arrangement that Trunkline would transport the gas from Longville to Panhandel at an interconnection in Douglas County, Illinois, for further delivery by Panhandle to Northern in Kiowa County, Kansas.

Applicants propose to transport up to 3,000 Mcf of gas per day during the first five years of service. Northern would have an option to reduce said quantity thereafter to no less than fifty percent of the initial volume.

Panhandle would charge Northern a monthly rate of $2,376 subject to adjustment based on firm transportation for Northern of 2,400 Mcf of gas per day for service between the point of receipt and Trunkline's Longville compressor station. An upward or downward adjustment of 3.27 cents per Mcf would be applied to any deficiency or excess in quantities taken. Panhandle would pay Trunkline for its *pro rata* share of the transportation service for the amounts paid by Northern. Northern would reimburse Trunkline one percent of the volumes received for fuel usage and line losses in transportation service between the point of receipt and Longville.

Applicants state that Northern has agreed to sell Panhandle up to 20 percent of the volumes received by Trunkline as partial consideration for the transportation service. Should Panhandle purchase additional gas which becomes available, the purchase price would be the cost of service underlying Northern's then effective jurisdictional sales rate plus associated transportation charges paid to others to effect delivery to Trunkline plus associated cost of service charges applicable to facilities Northern installs or causes to be installed to provide service to effect deliveries herein.

In compensating for the transportation by Trunkline of Panhandle's gas purchased from Northern to the point of interconnection in Douglas County, Illinois, Panhandle would pay Trunkline a monthly charge of $3,660 based on firm transportation quantity of 600 Mcf per day during the first five years of service with the option to reduce said quantity thereafter to no less than fifty percent of the initial volume. An upward or downward adjustment of 20.04 cents per Mcf would be applied to any deviation from the 600 Mcf per day in quantities taken, and Trunkline would retain five percent of the volumes received as reimbursement for fuel and line losses.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 18, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practive and Procedure (18 CFR 1.8 of 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party

to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission of its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 27647 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 67]

Southern California Edison Co.; Intent To Prepare Environmental Impact Statement and Notice of Scoping Meeting

August 28, 1980.

An application has been filed with the Federal Energy Regulatory Commission by the Southern California Edison Company (Licensee) for amendment of its license for the existing Big Creek No. 2A and No. 8 Project, FERC Project No. 67, located on the South Fork San Joaquin River and Big Creek in Fresno County, California. Licensee proposes to add the 200 MW Balsam Meadow development to Project No. 67 by constructing a hydroelectric power plant between the Huntington—Pitman—Shaver conduit (Tunnel No. 7) and Shaver Lake. The water supply will be provided by diversions from Huntington Lake and Pitman Creek through existing Tunnel No. 7 to a new forebay located in Balsam Meadow. The application was mailed out for agency review and comment on July 8, 1980. The Commission's staff has determined that issuance of the proposed amendment of license would be a major Federal action significantly affecting the quality of the human environment. The staff therefore intends to prepare an environmental impact statement in accordance with the National Environmental Policy Act. Possible alternatives to the proposed action will be addressed.

Interested persons and agencies are invited to participate in a scoping meeting to discuss the environmental impacts expected from the proposed Balsam Meadow development. The scoping meeting will be convened by the Commission's staff at 9:00 a.m. on September 18, 1980 at the Fresno County Public Library, 2420 Mariposa, Fresno, California (93721). The meeting will be recorded by a stenographer.

The primary goal of this meeting is to encourage interested parties to assist the staff in determining the scope of significant issues to be analyzed in depth in the environmental impact statement; and identifying and eliminating from detailed study issues which are not significant or which have been covered by prior environmental review.

The Commission's staff will identify, and requests that interested persons also identify, the significant issues that should be addressed in the environmental impact statement. If you are unable to send a representative to this meeting, you are encouraged to provide detailed comments by mail. If we do not receive your comments by October 1, 1980, we will assume that you have no further comments concerning the issues to be discussed in depth in the environmental impact statement.

Questions concerning the proposed action and the environmental impact statement should be directed to: Mr. James Haimes, Division of Environmental Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 at (202) 376-9053.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27050 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA80-2-8 (PGA No. 80-2)]

South Georgia Natural Gas Co.; Revision to PGA Rate Adjustment

August 25, 1980.

Take notice that on August 14, 1980, South Georgia Natural Gas Company tendered for filing Substitute Eleventh Revised Sheet No. 4 to First Revised Volume No. 1 of its FERC Gas Tariff to be effective on July 1, 1980.

South Georgia states that the purpose of the revised tariff sheet is to revise its July 1, 1980 PGA rate adjustment to reflect a decrease of 0.677¢ in its supplier's rates being tracked, as required by the Commission's June 30, 1980 letter order in this proceeding.

South Georgia states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said filing should on or before September 5, 1980 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-26870 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-132]

Southwest Gas Corp.; Proposed Changes in FERC Gas Tariff

August 26, 1980.

Take notice that on August 18, 1980, Southwest Gas Corporation ("Southwest") tendered for filing First Revised Sheet No. 22; Original Sheets Nos. 22A and 22B; and Second Revised Sheets Nos. 23 and 24 applicable to its FERC Gas Tariff, Original Volume No. 1. According to Southwest, the purpose of this filing is to include in Southwest's General Terms and Conditions new sections providing for (1) an interest penalty charge applicable to delinquent bills of Southwest's customers; (2) interest applied to any overcharge to which a customer may be entitled; and (3) extension of payment time if presentation of bill for service is delayed after the fifteenth of the month.

Southwest has requested that the Commission authorize the tendered tariff sheets to become effective August 25, 1980.

Southwest states that copies of the filing have been mailed to the Nevada Public Service Commission, the California Public Utilities Commission, Sierra Pacific Power Company and CP National.

Any person desiring to be heard, or to protest said filing, should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825

North Capitol Street, N.W., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Sept. 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27037 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-17]

Trans-Anadarko Pipeline System Successor in Interest to United Gas Pipe Line Co., Intent To Prepare an Environmental Impact Statement and Request for Comments on Its Scope

August 28, 1980.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC) intends to prepare an environmental impact statement (EIS) evaluating a natural gas pipeline proposed in Docket No. CP80-17. The EIS will address the application by Trans-Anadarko Pipeline System (Trans-Anadarko), a general partnership formed by Southern Natural Gas Company (Southern) and United Gas Pipe Line Company (United), for a certificate of public convenience and necessity, requested pursuant to Section 7(c) of the Natural Gas Act, to authorize construction and operation of pipeline facilities to be known as the "Trans-Anadarko Project." Natural gas obtained from the Deep Anadarko Basin, the Overthrust Belt in the Rocky Mountain area, and sources in Oklahoma would be transported through the proposed system to United's existing pipeline system and to Southern at a point of interconnection between the Trans-Anadarko pipeline and Southern's 14-inch diameter pipeline in Union Parish, Louisiana.

The project would consist of 635 miles of 30-inch diameter pipeline extending in a generally easterly direction from Moore County, Texas, to an interconnection with United's existing pipeline facilities in Ouachita Parish, Louisiana. Three compressor stations totaling 16,800 horsepower of compression and appurtenant facilities would also be associated with the system. The pipeline would traverse northern Texas, Oklahoma, southwestern Arkansas, and northern Louisiana.

To allow sufficient space for construction of the 30-inch diameter pipeline, a right-of-way 75 feet wide would be required. After construction, a 50-foot wide right-of-way would be maintained. Typical natural gas pipeline construction procedures would be followed.

A copy of this notice and additional technical information regarding the proposed project (including a map) have been distributed to Federal, state, and local environmental agencies, parties to the proceeding, and the public. These groups are invited to comment on anticipated environmental problems associated with the proposed project. These comments will be used by the FERC staff to identify the issues which require in-depth environmental analysis. Comments should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Recommendations that the EIS address specific issues should be supported by detailed rationale or a showing of the need to consider those issues. Written comments are requested by October 3, 1980.

Additional information about the proposal is available from Mr. Alan L. Barnett, Project Manager, Environmental Evaluation Branch, Office of Pipeline and Producer Regulation, telephone (202) 357-9041.

Kenneth F. Plumb,

Secreary.

[FR Doc. 80-27051 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-93]

Wedge Service Station; Filing of Petition for Review Under 42 U.S.C. 7194

August 26, 1980.

Take notice that Wedge Service Station on August 8, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before September 10, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before September 10, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, SW, Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., NE, Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary,

[FR Doc. 80-26871 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3103]

City of Westfield, Mass.; Granting Late Intervention

August 26, 1980.

On March 25, 1980, public notice was given that the City of Westfield, Massachusetts (City) had filed an application for preliminary permit for the proposed Stevens Project, FERC No. 3103. Petitions to intervene were to be filed on or before July 10, 1980.

On July 11, 1980, Richard L. Fowler, Richard L. Fowler, Jr., and Carole Fowler, trustees of the Fowler Farms Realty Trust, and Richard L. Fowler and Richard L. Fowler, Jr., partners of the Fowler Produce Company (Petitioners) jointly petitioned to intervene in the Project No. 3103 proceeding.

The Fowler Produce Company is a Massachusetts partnership whose business is the growing and distributing of vegetables. The Fowler Produce Company rents agricultural lands from the Fowler Farms Realty Trust. Petitioner Fowler Farms Realty Trust is the owner of a 66.5 acre parcel of land known as Wolfpit Meadows located upstream from the lower dam of Project No. 3103. Approximately 35% of these 66.5 acres are rented to petitioner Fowler Produce Company for cultivation. Petitioners state that an

alteration of the existing lower dam and reservoir at Project No. 3103 would have the effect of: 1) endangering the agricultural productive land situated in Wolfpit Meadows; 2) reducing the agricultural value of the Wolfpit Meadows land; and/or 3) rendering the Wolfpit Meadows land useless for agricultural purposes. Loss of tillable acrage contend the Petitioners, would cause irreparable and uncompensable loss. Petitioners also state that they rent and own an additional 145 acres downstream from Project No. 3103. Petitioners contend that increasing the capacity of the existing dam will increase the potential for flooding and flood damage downstream and cause a reduction in the agricultural value of downstream property owned and/or cultivated by Petitioners.

No response to the petition has been received.

Although the Petition filed by the petitioners was not timely filed, good cause exists for the late filing. It is appropriate and in the public interest to grant the petition.

Pursuant to § 375.302 of the Commission's regulations (45 FEd. Reg. 21216 (1980), *amending* 18 C.F.R. 3.5(a) (1979), the Petitioners are permitted to intervene in the proceeding subject to the Commission's rules and regulations under the Federal Power Act (16 U.S.C. §§ 791(a)–825(r)). Participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their petition to intervene. The admission of the intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order entered in this proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27031 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

Revised Numbering System for Formally Docketed Filings

August 28, 1980.

Take notice that commencing October 1, 1980 the Federal Energy Regulatory Commission will adopt a revised numbering system for all formally docketed filings. Filings will be assigned a three digit subdocket number in addtion to the customary docket number now being employed.

Previously, all filings docketed with the Commission were assigned a number determined by the type of filing, which was reflected in the designating prefix (i.e. an Electric rate filing would be docketed as ER80–100). The incorporation of the subdocket number would change this number to ER80–100 000. The appending of a subdocket to the root docket designation will increase the specificity of the docket number, thereby enhancing its ufefulness to both the Commission staff and to the public.

Subsequent filings under the same docket number will be assigned the root number and a sequential subdocket number. One example of this is that a settlement filed with addresses only some of the issues involved in a particular filing will be assigned the same root number and a sequential docket number (i.e. a partial settlement in ER80–100 000 may be given the designation ER 80–100 001).

The revised docket number, including the three digit subdocket number, will be the basis for official Commission records and should be referenced in its complete form in all communications with Commission staff. Beginning in FY 81 all notices of receipt will transmit both the appropriate docket and subdocket numbers.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-27052 Filed 9-3-80; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1571-1]

Consumer Affairs Program in Compliance With Executive Order 12160, "Providing for Enhancement and Coordination of Federal Consumer Programs"

AGENCY: Environmental Protection Agency.

ACTION: Feasibility study to consider automating complaint handling.

SUMMARY: A study is being undertaken to determine the advisability of automating consumer complaint handling. The study will determine whether and in what manner the several EPA offices that respond to complaints could supply data to a central computer for later review by the Agency's management and the public, for consideration in making policy and setting priorities.

The Administrator's Special Assistant for Consumer Affairs, Joan M. Nicholson, is carrying out the requirement for effective complaint handling that is stated in Executive Order 12160. (See Supplementary Information, below.) On June 9, 1980, the Agency published a Federal Register notice of adoption of its Consumers Affairs Program. In that context, EPA announced that new procedures would be proposed for processing complaints. Today's notice is the first step toward developing an appropriate proposal.

An improved system for complaint handling could accomplish the following:

(a) Apply staff and equipment more efficiently in responding to complaints quickly, thoughtfully and in a more systematic way;

(b) Provide the public and EPA's managers access to data previously unavailable about the number and subject matter of complaints addressed to the Agency, and take steps to consider those complaints, not only for policy implications, but also for guidance in heightening public awareness about EPA's activities, and;

(c) Show whether EPA's programs are meeting consumer expectations and, conversely, give early warning of locales or issues in which one program might be encountering less consumer satisfaction than another.

SUPPLEMENTARY INFORMATION: Executive Order 12160 states: "Agencies shall establish procedures for systematically logging in, investigating, and responding to consumer complaints, and for integrating analyses of complaints into the development of policy." (Subsection 10401(c)) In order to comply, EPA published in the Federal Register of June 9, 1980, a notice that the Administrator's Special Assistant for Consumer Affairs was at that time reviewing the functions of PIC, the Public Inquiries Center (formerly: Public Information Center) with the intention of improving its capacity to handle complaints. That review has led to the decision to study the feasibility of automating the Agency's complaint handling process, so that information concerning complaints could be made available to EPA management and to the public, and could be considered systematically in policy-making. A necessary outcome must be an improvement, wherever warranted, of the quality of responses to complaints and the speediness with which they are provided.

DATE: Comments must be received by October 15, 1980.

ADDRESS: Send comments to Rhea L. Cohen, Consumer Affairs Coordinator, Office of Public Awareness (A–107), Environmental Protection Agency, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Officer and address listed immediately above. Telephone: (202) 755–0700.

THE PROPOSAL: The Special Assistant for Consumer Affairs has requested EPA's Management Information and Data Systems Division

(MIDSD) to study the possibility of using automated data processing for storage and retrieval of complaint data. This study will involve no new expenditures and will be conducted by EPA's MIDSD staff in conjunction with the Office of Public Awareness. MIDSD is currently establishing procedures for linking and coordinating existing agencywide information management equipment with a central computer. Preliminary analysis suggests that complaint data could be integrated with minimal effort and no requirements for new hardware or personnel.

The data classifications could include the number of complaints received during a particular time period, the subject matter and locale of each complaint, and the policy implications of those complaints—excluding information which is privileged for legal or enforcement purposes, or proprietary for commercial reasons. Alternatives under consideration are fullscale data collection or random or systematic sampling, either agencywide or in a pilot program. Once the study is completed, the Special Assistant for Consumer Affairs will issue a report.

As part of the new program, the Public Inquiry Center would provide quarterly reports to the Agency's oversight body, the Consumer Affairs Coordinating Council (CACC), drawing on the comuterized complaint data and staff analyses of policy implications. The Coordinating Council, to prepare the complaint handling section of its annual report, would base its investigations, findings and recommendations on the PIC reports. Both the PIC quarterly reports and the CACC annual reports would be public documents. To ascertain whether consumers were satisfied with the responses they were given, periodic spot checks would be made by the Consumer Affairs staff. Training would be provided to central information operators to route telephone complaints to PIC, while mail room personnel would be instructed to expedite the sorting and delivery of letters addressed to a postal box that would be set aside for complaint mail. To publicize EPA's automated complaint handling system, the Consumer Affairs staff would prepare a pamphlet telling where to address complaints and how to get copies of reports and other related information.

Among the questions to be studied are: (1) whether automation could be done without adding new personnel and without incurring significant costs; (2) whether random or systematic sampling would be sufficiently effective and significantly more economical than fullscale data collection; (3) what data classifications would be necessary to allow Agency management and the public to review the nature of complaints and to see their implications for EPA policy; and, (4) what data collection procedures would be necessary to put automation into effect and to improve the Agency's responsiveness to complaints.

Comments on this proposal are invited, particularly on the questions listed above. They may be mailed to Rhea L. Cohen, Consumer Affairs Coordinator, Office of Public Awareness, U.S. Environmental Protection Agency (A-107), 401 M Street, S.W., Washington, D.C. 20460. Comments must be received by October 15, 1980, in order to give full consideration in the review process.

Douglas M. Costle,

Administrator.

August 29, 1980.

[FR Doc. 80-27154 Filed 9-3-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1597-3]

Agency Comments on Environmental Impact Statements and Other Actions Impacting the Environment

Pursuant to the requirements of the section 102(2)(C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of February 1, 1980 and February 29, 1980.

Appendix I contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix II contains the definitions of the classifications of EPA's comments on the draft environmental impact statements as set forth in Appendix I.

Appendix III contains a listing of final environmental impact statements reviewed and commented upon in writing during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix IV contains a listing of final environmental impact statements reviewed but not commented upon by EPA during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, and the EPA source of review as set forth in Appendix VI.

Appendix V contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. This listing includes the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in the Appendix VI.

Appendix VI contains a listing of the names and addresses of the sources of EPA reviews and comments listing in Appendices I, III, IV, and V.

Note that this is a 1980 report; the backlog of reports should be eliminated over the next two months.

Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions may be obtained by writing the Public Information Reference Unit, Environmental Protection Agency, Room 2922, Waterside Mall SW., Washington, D.C. 20460, telephone 202/755-2808.

Copies of the draft and final environmental impact statements referenced herein are available from the originating Federal department or agency.

Dated: August 26, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review.

Appendix L—*Draft Environmental Impact Statements for Which Comments Were Issued Between Feb.1, and Feb. 29, 1980*

Identifying No.	Title	General nature of comments	Source for copies of comments
	Corps of Engineers		
D-COE—E32027—FL	Improvement for Circulation, Flow and Navgation, Jacksonville Harbor, Mill Cove, Duval County, Florida.	ER2	E
D-COE—E67000—FL	Hookers Prairie Phosphate Mining, Permit, Polk County, Florida	3	E
D-COE—L36067—WA	East Bay Marina, Olympia Harbor, Budd Inlet, Thurston County, Washington	EU2	K
D-COE—L36068—OR	Nehalem Bay, Rehabilitation of the North and South Jetties, Oregon	ER2	K
	Department of Agriculture		
D-AFS—B82007—ME	Cooperative Spruce Budworm Suppression Project, 1980, Maine	LO1	B
D-AFS—K01000—NV	Jerritt Canyon Project, Gold Mine and Mill, Elko County, Nevada	LO2	J
DR-AFS—K65026—CA	Mendocino National Forest Timber Management Plan, California	LO1	J
D-AFS—L61133—OO	Hells Canyon National Recreation Area, Land and Resource Management Plan, Wallows-Whitman, Nezperce, and Payette National Forest, Baker and Wallowa Counties, Oregon, and Nezperce, Idaho, and Adams Counties, Idaho.	LO1	K
D-APH—A82104—OO	Cooperative Gypsy Moth Suppression and Regulatory Program, 1980 Activities, NJ, NY, PA, IL, MI, NC, SC, OH, WI, WA, VA, MD, WV, and New England States.	LO1	A
D-APH—A82105—OO	Rangeland Grasshopper Cooperative Management Program, Conterminous United States	3	A
DS-REA—J07002—WY	Wheatland Generating Station, Grayrock Dam, Platte County, Wyoming	LO2	I
	Department of Commerce		
DA-NOA-L90010-OO	Commercial Troll and Recreational Salmon Fisheries Off the Coast of Washington, Oregon, and California, Fishery Management Plan.	LO1	K
	Department of Energy		
DS-DOE-A00108-WA	Double-Shell Tanks for Defense High-Level Radioactive Waste Storage, Hanford Site, Richland, Benton County, Washington (DOE/EIS-0063-D).	LO1	A
DS-DOE-A00126-SC	Double-Shell Tanks for Defense High-Level Radioactive Waste Storage, Savannah River Plant, Aiken County, South Carolina (DOE/EIS-0082D).	LO1	A
D-BPA-L08036-OO	Fiscal Year 1981 Construction and Maintenance Program, Bonneville Power Administration	LO1	K
	Department of the Interior		
D-BLM-K65088-AZ	Shivwutz Resource Area Livestock Grazing Management, Mohave County, Arizona	LO1	J
D-NPS-F61010-IN	Lincoln Boyhood National Memorial, Spencer County, Indiana	LO1	F
	Department of Transportation		
RD-CGD-A55007-00	Waterfront Facilities Regulation, U.S. Ports, Harbors, and Navigable Waterways	LO2	A
DS-FAA-B51004-MA	Logan International Airport, Runway 22 Right, Suffolk, Norfolk, Middlesex, and Plymouth Counties, Massachusetts.	LO1	B
D-FAA-B51004-MA	Logan International Airport, Runway 22 Right, Departure Procedures, Suffolk, Norfolk, Middlesex, and Plymouth Counties, Massachusetts.	LO1	B
D-FHW-D40083-MD	MD-223, MD-5, to MD-4, Prince Georges County, Maryland	ER2	D
D-HFW-D40084-MD	U.S. 50, Choptank River Crossing, Cambridge, Maryland	LO2	D
D-FHW-D40085-MD	I-95, Baltimore/Washington Airport to I-95, Anne Arundel, Howard, and Baltimore Counties, Maryland.	LO2	D
D-FHW-E40185-GA	West 14th Street Extension, Redmond Road, North Rome Bypass, Floyd County, Georgia	ER2	E
D-FHW-E40186-GA	I-75, Construction, Northside Drive to I-285, Fulton County, Georgia	LO2	E
D-FHW-E40187-GA	U.S. 27/GA-1 Improvement and Relocation, Walker and Catoosa Counties, Georgia	LO2	E
D-FHW-F40145-MN	Forest Highway, MN-29 in Pennington to TH-6 near Bowstring, Beltrami, and Itasca Counties, Minnesota.	ER2	F
D-FHW-F40146-OO	U.S. 10, Prescott Bridge and Approaches, Pierce County, Wisconsin and Washington County, Minnesota.	LO2	F
D-FHW-F40148-IN	Whitewater River Bridge and Approaches, IN-1 to IN-1/IN-44 Intersection, Fayette County, Indiana.	LO2	F
D-FHW-G40079-NM	San Mateo Boulevard, Southeast Heights Section, Gibson to Zuni Southeast, Albuquerque, Bernalillo County, New Mexico.	LO1	G
D-FHW-H40092-NB	27th Street Improvement, Potter Street to Arbor Road, Lincoln, Lancaster County, Nebraska (FHWA-NEBR-EIS-79-01-D).	LO2	H
D-FHW-J40051-CO	CO-83, Parker Road, CO-88 to CO-86, Arapahoe County, Colorado	ER2	I
D-FHW-K40074-CA	I-8 and CA-125 Interchange, San Diego County, California	LO2	J
D-FHW-L40087-OR	Willamette River Bridges, OR-22, Willamina to Salem Highway, Marion and Polk Counties, Oregon.	LO2	K
D[FHW-L40088-WA	WA-290, Hamilton Street to I-90, Spokane, Spokane County, Washington	ER2	K
D-NHT-A52147-OO	Average Fuel Economy Standards for Light Trucks, Model Years 1982 through 1985	LO1	A
	Federal Energy Regulatory Commission		
D-FRC-K05007-CA	North Fork Stanislaus River, Project #2409, California	LO2	J
	Great Lakes Basin Commission		
D-GLB-F20001-OO	Great Lakes Basin Hazardous Materials Strategy	3	F
D-GLB-F39010-OO	Great Lakes Basin Water Quality Plan	3	F

Identifying No.	Title	General nature of comments	Source for copies of comments
	Department of Housing and Urban Development		
D-HUD-C99006-NY	Staten Island Industrial Park (CDBG), New York City Public Development Corporation, Staten Island, New York.	3	C
D-HUD-E91001-KY	Phoenix Hill Development (CDBG), Louisville, Jefferson County, Kentucky	LO2	E
D-HUD-G85145-TX	Oak Ridge Estates and North Shore Development Project, Portland, San Patricio County, Texas	ER2	G
D-HUD-G85146-TX	Wheatstone Subdivision, Mortgage Insurance, Harris County, Texas	ER2	G
D-HUD-J85028-CO	Country Club West, and Westmoor West Development, Greeley, Weld County, Colorado	LO2	I
D-HUD-K85029-ND	North Hill Acres 2nd and Washington 4th Residential Development, Dickinson, Stark County, North Dakota.	LO1	I
	Interstate Commerce Commission		
D-ICC-A53049-OO	Connection of CSX Corporation With Chessie System Inc. and Seaboard Coast Line Industries, to Create a Single Railroad System (79-1274).	ER2	A

Appendix II.—Definitions of Codes for the General Nature of EPA Comments

Environmental Impact of the Action

LO—Lack of Objection

EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—Environmental Reservations

EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reasses these impacts.

EU—Environmentally Unsatisfactory

EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

Adequacy of the Impact Statement

Category 1—Adequate

The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

Category 2—Insufficient Information

EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3—Inadequate

EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

Appendix III.—*Final Environmental Impact Statements for Which Comments Were Issued Between Feb. 1 and Feb. 29, 1980.*

Identifying No.	Title	General nature of comments	Source For copies of comments
	Corps of Engineers		
F-COE-B36014-MA	Leominster Local Protection Project, Monoosoc Brook, Leominster, Worcester County, Massachusetts.	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA notes concerns with the effect on Monoosnoc Brook of low dissolved oxygen water from the proposed diversion tunnel. Additional concerns are also expressed with respect to the impact of the proposed project on water supply wells, the aquatic resources of Rockwell Pond and Monoosnoc Brook, and noise. Dissolved oxygen monitoring in Monoosnoc Brook may be necessary to determine the degree of impact of the proposed diversion tunnel's water on Monoosnoc Brook.	B
F-COE-C36028-NY	Dansville and Vicinity, Flood Protection, Livingston County, New York.	EPA's concerns were adequately addressed in the final EIS	C
FS-COE-E32006-GA	Kings Island Turning Basin, Savannah Harbor, Georgia.	EPA's concerns were adequately addressed in the final supplement. EPA emphasized the need to minimize damage to fish and wildlife resources and to ensure water quality standards are not violated.	E
F-COE-E32023-MS	Cadet Bayou Construction, Anchorage Basin and Maintenance, Existing Federal Channel, Hancock County, Mississippi.	EPA's concerns were adequately addressed in the final EIS	E
F-COE-E35043-TN	Mississippi River, Additional Harbor Facilities, Memphis, Shelby County, Tennessee.	EPA has environmental reservations concerning adverse water and air quality impacts which may accure from this facility. The project must be compatible with water quality use clarification. Flushing has been suggested even if it is provided, special precautions must be taken in the Harbor to avoid violating water quality standards.	E
F-COE-F34006-IL	Louisville Lake, Little Wabash River Basin, Louisville, Clay and Effingham Counties, Illinois.	EPA's review of the final EIS indicates the COE had been unresponsive to EPA's concerns raised in the draft EIS and therefore does not remove the reservations expressed with this project. EPA believes the information requested is necessary to determine the significance of the projects' environmental impact and if there are environmentally preferrable alternatives to the proposed action. Therefore, EPA recommends that no action be taken to implement the proposed project.	F
	Department of Agriculture		
F-AFS-J65078-WY	Greys-Salt River Planning, Bridger-Teton National Forest, Lincoln County, Wyoming.	EPA's concerns were adequately addressed in the final EIS. EPA strongly urged the Forest Service to Obtain the necessary funding to obtain the stated water objective.	I
F-AFS-L61125-OR	Desolation Planning Unit, Umatilla National Forest, Umatilla, Union and Grant Counties, Oregon (06-14-78-02).	EPA continues to have environmental reservations regarding the proposed plan and does not feel the comments expressed on the draft EIS have been adequately addressed in the final EIS. EPA believes the preferred alternative greatly increases comodity production over present levels at the expense of other multiple use values, and that unacceptable water quality and fishery impacts are likely to result.	I

Appendix III.—*Final Environmental Impact Statements for Which Comments Were Issued Between Feb. 1 and Feb. 29, 1980.*—Continued

Identifying No.	Title	General nature of comments	Source For copies of comments
	Department of Agriculture—Continued		
F-REA-F08008-MN	230 kV Transmission Line, Benton to Milaca, Benton County, Minnesota.	EPA's concerns were adequately addressed in the final EIS	F
	Department of Commerce		
F-NOA-K86006-00	Precious Coral Fisheries, Fishery Management Plan (FMP), Western Pacific Region.	EPA's concerns were adequately addressed in the final EIS	J
	Department of Energy		
F-DOE-A00140-NM	Los Alamos Scientific Laboratory Site (LASL), Los Alamos, Los Alamos and Santa Fe Counties, New Mexico (DOE/EIS-0018).	EPA's Concerns were adequately addressed in the final EIS	A
F-DOE-A09071-SC	Long-Term Management, Defense High-Level Radioactive Wastes, Savannah River Plant, Aiken, South Carolina.	EPA's concerns were, in general, adequately addressed in the final EIS except for issues to be addressed in a future EIS concerning the proposed solidification plant or a future EIS for the respository of solidified wastes.	A
F-DOE-A09803-NM	Geothermal Demonstration Program, 50 MWe Power Plant, Sandoval and Rio Arriba Counties, New Mexico (DOE/EIS-0049, January 1980).	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA believes the DOE should supplement the FEIS prior to approving any expansion to the plant.	A
	Department of Transportation		
F-FHW-J40044-ND	Max North and South, U.S. 83, ND-23 to ND-37, Ward and McLean Counties, North Dakota.	EPA's concerns were adequately addressed in the final EIS. However, EPA encourages further efforts in regards to wetland mitigation prior to your application for a 404 permit.	I
	Department of Housing and Urban Development		
F-HUD-C89002-NJ	NJ-23, Urban Renewal Project, Wayne Township, Passaic County, New Jersey.	EPA's concerns were adequately addressed in the final EIS	C
F-HUD-E85043-TN	Stonebridge Subdivision, Memphis, Shelby County, Tennessee.	Generally, EPA's concerns were adequately addressed in the final EIS. EPA reemphasized comments regarding air quality impacts.	E
F-HUD-F69002-MI	Cadillac Center Shopping Mall, Detroit, Wayne County, Michigan (CDBG).	EPA's concerns were adequately addressed in final EIS	F
F-HUD-G85140-TX	Steeplechase Subdivision, Harris County, Texas	EPA's concerns were adequately addressed in the final EIS	G
F-HUD-K80009-CA	Downtown Oakland Convention Center and Hotel, Oakland, California (UDAG).	EPA's concerns were adequately addressed in the final EIS	J
F-HUD-K89029-CA	Downtown Stockton Redevelopment Project (UDAG), San Joaquin, California.	EPA's concerns were adequately addressed in the final EIS	J
	Nuclear Regulatory Commission		
F-NRC-C06009-NY	Indian Point No. 3, Closed Cycle Cooling System, Westchester County, New York.	EPA's concerns were adequately addressed in the final EIS	C
	Department of the Interior		
F-BLM-A02149-00	Proposed Five-Year OCS Oil and Gas Lease Sale Schedule, March 1980 to February 1985, States: ME, NH, MA, RI, CT, NY, NJ, DE, MD, VA, NC, SC, GA, FL, AL, and MS.	EPA believes that offshore oil and gas sources can be developed in an environmentally responsible way. To achieve this, EPA believes it is essential that leasing decisions be based on the most comprehensive and complete environmental information possible. EPA is concerned that the sale schedule does not provide for environmental study results to be factored into the EIS process and to be available for decisionmaking prior to the lease sale. EPA recommends that the selected schedule omit those areas in the FEIS that have high biological importance and vulnerability to impacts from oil and gas operations. EPA is also concerned that more generic and site specific information is needed on the fate and effects of drilling fluids completion, fracturing and other well treatment fluids and produced formation waters.	A
F-BLM-A02151-00	Proposed 1980 Outer Continental Shelf (OCS) Oil and Gas Lease Sales A62 and 62, Gulf of Mexico.	EPA maintains its reservations regarding the offering of 24 tracts in deep waters on the Continental Slope, insofar as they would require the use of unregulated subsea technology. Platforms in this area would be subject to the platform verification program of U.S. Geological Survey, while subsea systems would not. EPA is also concerned that six tracts are offered in the unconsolidated sediment zone off the Mississippi Delta.	A
F-NPS-K91000-AZ	Grand Canyon National Park, Feral Burro Menagement and Ecosystem Restoration Plan, Arizona.	EPA's concerns were adequately addressed in the final EIS	J

Appendix IV.—*Final Environmental Impact Statements Which Were Reviewed and Not Commented on Between Feb. 1 and Feb. 29, 1980*

Identifying No.	Title	Source of review
	Corps of Engineers	
FS-COE-A39032-IA	Iowa Local Protection Project, Evansdale, Cedar River Blackhawk County, Iowa	H
	Department of Agriculture	
F-AFS-B65000-NH	White Mountain National Forest, Presidential Unit Plan, Coos and Carroll Counties, New Hampshire (USDA-FS-R9-FES-ADM-79-01)	B
F-AFS-J65088-MT	Bull River-Clark Fork Planning Unit, Kootenai National Forest, Montana	I
F-AFS-L61121-OR	Heppner Planning Unit, Umatilla national Forest, Umatilla, Morrow, Wheeler and Grant Counties, Oregon (USDA-FS-R6-DES-(ADM)-79-06)	K

Appendix IV.—*Final Environmental Impact Statements Which Were Reviewed and Not Commented on Between Feb. 1 and Feb. 29, 1980*—Continued

Identifying No.	Title	Source of review
	Department of Transporation	
F-FHW-B40014-MA	MA-146, Sutton, Northbridge, Douglas, Uxbridge and Millville, Worcester County, Massachusetts (FHWA-MASS-EIS-75-03-F)	B
	General Services Administration	
F-GSA-E81017-FL	Disposal of Surplus Federal Military Properties, Harry S. Truman Annex and Trumbo Point Annex of Key West Naval Air Station, Key West, Florida.	E
	Department of Housing and Urban Development	
F-HUD-J86025-MT	Royal Village Planned Development, Belgrade, Gallatin County, Montana	I

Appendix V.—*Regulations, Legislation and Other Federal Agency Actions for Which Comments Were Issued Between Feb. 1 and Feb. 29, 1980*

Identifying No.	Title	General nature of comments	Source for copies of comments
	Corps of Engineers		
A-COE-D30001-VA	Additional Information, Beach Erosion Control, Project, Virginia Beach, Virginia.	EPA expressed concern regarding the potential impacts relating to the proposed Borrow Pit.	D
A-COE-K36038-CA	Assessment, Santa Maria Valley and Channel Improvement Project, Santa Barbara County, California.	EPA has no formal comments to offer at this time	K
A-COE-K36044-CA	Assessment, Flood Control Study, Sespe Creek at Fillmore, Ventura County, California.	EPA has no formal comments to offer at this time	K
	Department of Commerce		
A-NOA-K90010-CA	Environmental Analysis for Potential Marine Terminal Site, MTC/BCDC Port Planning Project Phase II, California.	EPA offered several comments and suggestions relating to the 404 permit, water and air quality.	K
	Department of Energy		
R-DOE-A09077-00	10 CFR Part 456, Residential Conservation Service Program, Notice of Proposed Rulemaking and Public Hearing, Docket No. CAS-RM-79-101 (44 FR 75956).	EPA recommended that urea-formaldehyde foam insulation (UFFI) not be included in the RCS program. The comments were based on EPA's belief that the potential health hazard due to continuous exposure to formaldehyde fumes had not been fully evaluated.	A
	Department of Transportation		
N-FAA-D51016-WV	Fonsi, Buckhannon-Upshur County Airport, Buckhannon, West Virginia.	EPA has no objections to further development of the project as described	D
A-FAA-K51021-CA	Assessment, Proposed Crosswind Runway Project, Imperial County, California.	EPA provided comments to improve the accuracy of the noise analysis	K
A-FAA-K51022-CA	Joint Study, Land Use Plan, San Francisco International Airport and San Mateo County Airport, California.	EPA believes sufficient mitigation measures should be adopted to ensure the attainment and maintenance of the CO-NAAQS adjacent to the terminal area and surrounding grounds by the statutory attainment date. EPA also offered several comments relating to noise impacts.	K
A-FHW-D40087-MD	Assessment, U.S. 48, East of Cumberland Road to M. V. Smith Road Allegheny County, Maryland.	EPA has no objections to the project from an air quality standpoint	D
A-UMT-D54029-MD	Assessment, New Carrollton Metrobus Facility, Prince Georges County, Maryland.	EPA expressed concern regarding the projects estimated air quality impacts and the placement of the facility in the 100-year floodplain.	D
	National Capital Planning Commission		
A-NCP-D89024-DC	Assessment, Georgetown Waterfront Park, Washington, D.C..	EPA offered several suggestions to assist in the preparation of a more detailed environmental analysis in the future.	D
	Nuclear Regulatory Commission		
R-NRC-A00147-OO	10 CFR Part 51, Commitment of Economic Resources Necessitated by Nuclear Waste Management Activities, Action, Publication of Petition for Rulemaking from the States of New York, Ohio, and Wisconsin (Docket No. PRM-51-5) (44 FR 65598).	EPA Favors inclusion of economic costs in the entire uranium fuel cycle and suggests the NRC develop the economic valves to be added to table S-3..	A
R-NRC-A55006-OO	10 CFR Part 71, Packing of Radioactive Material for Transportation and Transportation of Radioactive Material Under Certain Conditions, Compatibility with IAEA Regulations (44 FR 13739).	EPA again expressed the suggestion that dose limits be developed according to Federal guidance which requires use of as-low-as-reasonably-achievable (ALARA) methods.	A

Appendix VI.—Source for Copies of EPA Comments

A. Public Information Reference Unit (PM–213), Environmental Protection Agency, Room 2922, Waterside Mall, SW., Washington, D.C. 20460.
B. Director of Public Affairs, Region 1, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203.
C. Director of Public Affairs, Region 2, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007.
D. Director of Public Affairs, Region 3, Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.
E. Director of Public Affairs, Region 4, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, GA 30308.
F. Director of Public Affairs, Region 5, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.
G. Director of Public Affairs, Region 6, Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270.
H. Director of Public Affairs, Region 7, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Missouri 64108.
I. Director of Public Affairs, Region 8, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80203.
J. Office of External Affairs, Region 9, Environmental Protection Agency, 213 Fremont Street, San Francisco, California 94108.
K. Director of Public Affairs, Region 10, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

[FR Doc. 80-26967 Filed 9-3-80; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1597-2]

Intent To Prepare a Supplemental Environmental Impact Statement

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of intent to prepare a supplemental environmental impact statement (EIS).

PURPOSE: To fulfill the requirements of 40 CFR 1502.9 of the National Environmental Policy Act regulations, EPA has identified a need to prepare a Supplemental EIS and therefore issues this Notice of Intent pursuant to 40 CFR 1501.7.

FOR FURTHER INFORMATION CONTACT: Mr. Clinton B. Spotts, Regional EIS Coordinator, USEPA, Region 6, 1201 Elm Street, Dallas, Texas 75270, Telephone: (Commercial) 214–767–2716, (FTS) 729–2716.

SUMMARY:

1. Description of Proposed Action

On June 29, 1974, EPA awarded the city of Albuquerque a Federal grant (C–35–1020–01) pursuant to Section 201 of the Clean Water Act for the preparation of a facilities plan for wastewater treatment facilities in the city.

Based on the facility plan submitted by the city, EPA prepared and distributed a Draft Environmental Impact Statement (EIS) in June 1977 and a Final EIS in August 1977. On September 28, 1978, EPA approved the facility plan. In June 1980, the city indicated to EPA that they would be amending their facility plan. EPA has determined that the portion of the amendment which deals with the treatment, handling and disposal of sludge is a significant change and requires preparation of a supplemental EIS. The draft amendment currently calls for the sludge to be piped 5 miles east to Montessa Park. There, the sludge would be dewatered, irradiated with Cesium–137, and stockpiled for future use as a soil fertilizer/conditioner and animal feed supplement.

The EPA action being considered is the approval of the amendment to the facilities plan and subsequent EPA funding for design and construction of a sludge treatment and disposal system.

2. Public and Private Participation in the EIS Process

EPA invites full participation by individuals, private organizations, and local, State and Federal agencies. EPA will involve and encourage the public to participate in the planning process to the maximum extent possible. Public meetings will be held at key points in the planning process.

3. Scoping

The first public meeting will be conducted by EPA, Region 6, to identify significant environmental issues and determine the scope of the Supplemental Environmental Impact Statement. This scoping meeting is scheduled for 7:30 p.m. on October 7, 1980 in the Council Chambers, First Floor, City Hall, 400 Marquette NW, Albuquerque, New Mexico.

4. Timing

EPA estimates the Draft Supplemental EIS will be available for public review and comment around March 1981.

5. Requests for Copies of Draft EIS

All interested parties are encouraged to submit their name and addresss to the person indicated above for inclusion on the distribution list for the Draft EIS and related public notices.

Dated: August 28, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A–104).

[FR Doc. 80-26968 Filed 9-3-80; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1596-8; OPP-66073]

Certain Pesticide Products; Intent To Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: List of firms who have requested voluntary cancellation of registration of their pesticide products as provided for in Section 6(a)(1) of the Federal Insectide, Fungicide, and Rodenticide Act (FIFRA) as amended.

EFFECTIVE DATE: October 6, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, 202–755–8050.

FOR FURTHER INFORMATION CONTACT: Lela Sykes, 202–426–8540.

SUPPLEMENTARY INFORMATION: EPA has been advised by the following firms of their intent to voluntarily cancel registration of their pesticide products.

EPA registration No.	Product name	Registrant	Date registered
108–47	Rawleigh Moth Proofer (Cedar Scented)	W. T. Rawleigh Co., 223 East Main St., Freeport, IL 61032	June 24, 1970.
226–221	Tobacco States Brand Buckshot Tobacco Spray	Tobacco States Chemical Co., P.O. Box 12248, Lexington, KY 40580	May 31, 1972.
595–307	Haviland P.M. Spray Insecticide Concentrate	Haviland Agricultural Chemical Co., 1845 Sterling NW., Grand Rapids, MI 49502	June 11, 1969.
595–308	Haviland Perthane EC Agricultural Insecticide Emulsifiable Concentrat.	Haviland Agricultural Chemical Co., 1845 Sterling NW., Grand Rapids, MI 49502	June 17, 1969.
802–222	Miller's Perthane 4 E	The Chas. H. Lilly Co., 7737 Northeast Killingsworth, Portland, OR 97218	July 1, 1958.
802–291	Miller's Perthane 10 D	The Chas. H. Lilly Co., 7737 Northeast Killingsworth, Portland, OR 97218	July 12, 1961.
802–462	Miller's Systemic Noxall Grass and Weed Killer	The Chas. H. Lilly Co., 109 Southeast Alder St., Portland, OR 97214	Feb. 17, 1971.
876–218	Vegatrol LV–4D Herbicide	Velsicol Chemical Corp., 341 East Ohio St., Chicago, IL 60611	Nov. 21, 1975.
876–222	Vegatrol A–4D Herbicide	Velsicol Chemical Corp., 341 East Ohio St., Chicago, IL 60611	Nov. 21, 1975.
1435–5	Skram Insect Repellent	Halsey Drug Co. Inc., 1827 Pacific St., Brooklyn, NY 11233	Apr. 8, 1958.
1435–7	Oil of Citronella	Halsey Drug Co. Inc., 1827 Pacific St., Brooklyn, NY 11233	Feb. 25, 1964.

EPA registration No.	Product name	Registrant	Date registered
1475-99	Enoz Cedar Scented Moth-Proof	Willert Home Products, 4044 Park Ave., St. Louis, MO 63110	June 17, 1972.
1603-14	Galler's Moth Proofer	Reefer-Galler, Inc., 4044 Park Ave., St. Louis, MO 63110	Feb. 11, 1955.
1767-77	Lucky Strike Metacine	The Parrott Chemical Co., 16 Sunnyside Ave., Stamford, CT 06902	Apr. 26, 1960.
3507-12	Vapocide Moth Spray	Chicago Sanitary Products Co., 1260 West Washington Blvd., Chicago, IL 60607	Mar. 13, 1956.
8590-334	Agway Malathion Grain Spray	Agway, Inc., Box 4933, Syracuse, NY 13221	Nov. 30, 1970.
10198-1	Chemo With Perthane	Ladco Chemical Products Co., Inc., 5628 Maelou Drive, Hamburg, NY 14075	July 3, 1968.

The Agency has agreed that such cancellation shall be effective October, 6, 1980, unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for one year after the effective date of cancellation, whichever is earlier; provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of FIFRA as amended. Production of these products as pesticide formulations after the effective date of cancellation will be considered to be a violation of the act.

Requests that the registration of these products be continued, may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP-66073]" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in the Document Control Office at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 6(a)(1) of FIFRA as amended 86 Stat. 973 89 Stat. 751, (7 U.S.C. 136))

Dated: August 27, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-26971 Filed 9-3-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1596-7; PP OG2301/T257]

2,-4-Dichlorophenoxyacetic Acid; Establishment of Temporary Tolerances; Water and Power Resources Service and Engineers Corps

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Temporary tolerances have been established for the residues of the herbicide 2,-4-dichlorophenoxyacetic acid, from application as either its dimethylamine salt or its butoxyethanol ester for treatments under the experimental program for Eurasian watermilfoil control in lakes and reservoirs, specified in the program by the Water and Power Resources Service, U.S. Department of the Interior, and the Corps of Engineers, U.S. Army at 1 part per million (ppm) in fish (edible flesh) and in or on the crop groups: citrus; cucurbits; forage grasses; forage legumes; fruiting vegetables; grain crops; leafy vegetables; seed and pod vegetables; small fruits; stone fruits; and the individual raw agricultural commodities: avocados, cottonseed, hops, and strawberries. Where tolerances are established at higher levels from other uses of the dimethylamine salt of 2,4-D and the butoxyethanol ester of 2,4-D on the above raw agricultural commodities, the higher tolerance also applies to residues from the aquatic uses cited above.

FOR FURTHER INFORMATION CONTACT: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS-767), Office of Pesticide Programs, Rm: E-351, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202-755-1397).

SUPPLEMENTARY INFORMATION: Water and Power Resources Service, USDI, Washington, D.C. 20240 submitted a pesticide petition (PP OG2301) to the EPA. The petition requested that temporary tolerances be established for the combined residues of the herbicide 2,-4-dichlorophenoxyacetic acid, applied as either the dimethylamine salt or the butoxyethanol ester formulations, in fish (edible flesh) and in or on the crop groups: citrus, cucurbits; forage grasses; forage legumes, fruiting vegetables; grain crops; leafy vegetables; seed and pod vegetables; small fruits; stone fruits; and the individual raw agricultural commodities: avocados, cottonseed, hops, and strawberries at 1 ppm from treatments under the experimental program for Eurasian Watermilfoil control in lakes and reservoirs, specified in the program by the Water and Power Resources Service, U.S. Department of Interior, and the Corps of Engineers, U.S. Army. Where tolerances are established at higher levels from other uses of the dimethylamine salt of 2,4-D and the butoxyethanol ester of 2,4-D on the above raw agricultural commodities, the higher also applies to residues from the aquatic uses cited above. These tolerances are to permit the marketing of the above raw agricultural commodities when treated in accordance with an experimental use permit being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (Pub. L. 80-104, 61 Stat. 163. as amended by Pub. L. 92-516, 86 Stat. 975; Pub. L. 94-140, 89 Stat. 754, Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it has been determined that the tolerances are adequate to protect the public health.

The temporary tolerances have been established on the condition that the temporary tolerances and the experimental use permit be used with the following provisions:

1. The total amount of the pesticide to be use will not exceed the amount authorized in the experimental use permit.

2. Water and Power Resources, U.S. Department of Interior will immediately notify the Environmental Protection Agency of any findings from the experimental use that have a bearing on safety. The firm will also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire on February 28, 1982. Residues not in excess of the amount remaining in or on the raw agricultural commodities after the expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with the provisions of the

experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

(Sec. 408(1), 68 Stat. 561, (21 U.S.C. 346a(j))

Dated: August 26, 1980.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-26972 Filed 9-3-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1596-5; PF 98A]

Ciba-Geigy Corp.; Filing of Pesticide and Food Additive Petitions; Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Ciba-Geigy Corp. has requested amendments to pesticide petition (PP 8F2057) and food additive petition (FAP 8H5177) to increase the propose tolerance for the residues of the insecticide *O*-(4-bromo-2-chlorophenyl) *O*-ethyl *S*-propyl phosphorothioate and its metabolites convented to 4-bromo-2-chlorophenyl *O*-ethyl *S*-propyl phoshorothioate on eggs from "0.01 part per million" (ppm) to "0.05 ppm" and to increase the proposed tolerance on soapstock from "9.0 ppm" to "15.0 ppm", respectively.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, Product Manager (PM) 17, Office of Pesticide Programs, Rm. E-341, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, (202-426-9417).

SUPPLEMENTARY INFORMATION: A notice was published in the Federal Register of April 18, 1978 (43 FR 16400) that Ciba-Geigy Corp., P.O. Box 11422, Greenboro, NC 27409 had filed a pesticide petition (PP 8F2057) proposing to amend 40 CFR Part 180 by establishing tolerances for the residues of the insecticide *O*-(4-bromo-2-chloropehnyl) *O*-ethyl *S*-propyl phosphorothioate and its metabolites converted to 4-bromo-2-cholorphenyl) *O*-ethyl *S*-propyl phosphorothioate in or on the raw agricultural commodity cottonseed at 3 ppm; meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.05 ppm; eggs and milk at 0.01 ppm.

Ciba-Geigy Corp. has submitted an amendment proposing to amend the petition by increasing the proposed tolerance on eggs from "0.01 ppm" to "0.05 ppm".

In the same notice, Ciba-Geigy submitted a food additive petition (FAP 8H5177) proposing to amend 21 CFR 561 by establishing a regulation permitting the use of the above named insecticide in cottonseed hulls at 6.0 ppm and soapstock at 9.0 ppm from application of the insecticide to growing cotton. Ciba-Geigy Corp. has submitted an amendment proposing to amend the petition by increasing the proposed tolerance on soapstock from "9.0 ppm" to "15.0 ppm".

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 135); 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348))

Dated: August 26, 1980.

James W. Akerman,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-26975 Filed 9-3-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1596-3; OPTS-51120]

N-[3 (Dimethylamino) Propyl] Perfluoro C_4-C_8 Alkanesulfonamides, Acid Catalyzed Reaction Product with Alkenyl Carboxylic Acid; Premature Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the Federal Register certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by September 22, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, 202-755-8050.

FOR FURTHER INFORMATION CONTACT: Robert Smith, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, 202-426-8816.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the Federal Register of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the Federal Register issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the Federal Register of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the Federal Register nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the Federal Register.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended Federal Register notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will

place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) Federal Register notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the Federal Register.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before September 22, 1980, submit to the Document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51120]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: August 26, 1980.

Douglas Bannerman,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80-183.

Close of Review Period. October 22, 1980.

Manufacturer's Identity. 3M Co., 3M Center, St. Paul, MN 55144.

Specific Chemical Identity. Claimed confidential. Generic name provided: *N*-[3(dimethylamino) propyl] perfluoro C_4-C_8 alkanesulfonamides, acid catalyzed reaction product with alkenyl carboxylic acid.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Chemical used for public safety product.

Production Estimates. Claimed confidential.

Physical/Chemical Properties.

Physical description—Straw-colored powdery solid.
Boiling point, initial—212° F.
Melting point range—90-132° F.
Evaporation rate (B.A.=1)—>1.
Solubility—Miscible in water.
Density—1.6 g/cc.
Specific gravity (H_2O=1)—~ 1.03.
Percent volatile—92%,
pH—7.5-9.0.

Toxicity Data.

Eye irritation test—Draize 4.3; minimally irritating.
Primary skin irritation test (rabbit)—Draize 4.3; minimally irritating.
Saccharomyces cerevisiae—Nonmutagenic and nonrecombinogenic.
Oral LD_{50} (rat)—>5 g/g.
Theoritical oxygen demand (ThOD)—0.75 g/g.
Average measured chemical oxygen demand—0.41 g/g.
Biochemical oxygen demand (BOD):
5 days—<0.038 g/g.
10 days—<0.038 g/g.
20 days—<0.038 g/g.
LC_{50} (fathead minnow):
96 hr—158 mg/l.
Replicate—166 mg/l.
LD_{50} (daphnids):
48 hr—100 mg/l.
Replicate—111 mg/l.

Exposure.

Site/activity	Exposure route	Max. No. exposed	Max. duration		Concentration (ppm)	
			Man/hr	Da/yr	Average	Peak
Decatur, AL:						
Manufacture	Skin	3	20	10	0-1	
Processing	None				0-1	
Use	Skin (dilute) solution	10	24	100	0-1	
St. Paul, MN:						
Processing	Skin	9	24	14	0-1	0-1

Environmental Release/Disposal.

Media	Amount of chemical release (kg/yr).	
	Decatur, AL	St. Paul, MN
Air	None expected	None expected.
Water	Less than 10	Less than 10.
Land	10 to 100	Less than 10.

Decatur, AL. Incinerator. Pollution control consists of a secondary combustion chamber and an ash settling chamber preceding the stack. Wastewater treatment. Treated discharges drain into the Tennessee River. Waste sludge is land applied.

St. Paul, MN. Incinerator. Pollution control equipment includes a quench, elbow, quench chamber, a venturi scrubber, and mist eliminator followed by a 200-ft. stack. The ash is landfilled. The up to 1,500 gallons per minute (gpm) of water from the pollution control equipment is chemically treated in the Chemolite wastewater treatment facility. Wastewater treatment. Prior to entering the Mississippi River, treated water flows through polishing ponds with a 3-day retention time. Waste sludge is landfilled in Milwaukee, Wisconsin.

[FR Doc. 80-26942 Filed 9-3-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1597-1; OPTS-50017]

Transfer of TSCA Information and Data to Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will transfer to its contractor, GCA Corp. (Technology Division) of Bedford, Massachusetts, information which will be submitted under Section 8(a) of the Toxic Substances Control Act (TSCA) and which has been submitted under section 8(b) of TSCA for the Initial Inventory of Chemical Substances. Some of the information may be claimed to be confidential. GCA will review this information and use it to analyze and report to EPA on control options to reduce environmental releases.

DATE: The transfer of data submitted to EPA and claimed to be confidential will occur no sooner than 10 working days after publication of this notice in the Federal Register.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Director, Industry Assistance Office (TS-799), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460, 202/544-1404, or Toll Free 800/424-9065.

SUPPLEMENTARY INFORMATION: Under Section 6(a) of TSCA, EPA must adequately protect the public against an unreasonable risk of injury to health or the environment from the manufacture, processing, distribution in commerce, use or disposal of chemical substances and mixtures and to do so through the least burdensome of seven listed means. The Agency must evaluate the cost and effectiveness of various control measures against the reduction of risk achieved by each. To analyze these control options, EPA will require the assistance of outside experts. EPA has selected GCA Corp. (Technology Division) of Bedford, Massachusetts, to assist it in analyzing the costs and effectiveness associated with the implementation of control options to reduce the environmental releases of chemical substances (Contract No. 68-01-5960).

Pursuant to 40 CFR 2.306(j), EPA has determined that it may need to disclose confidential business information to GCA. Under the terms of the contract, EPA will provide GCA with information concerning production levels, product formulation, manufacturing processes, uses, release rates, and exposure levels of chemical substances obtained from the TSCA Initial Inventory of Chemical Substances (section 8(b)) and submissions under prospective section 8(a) rules. If any of the information is claimed to be confidential, reports prepared by GCA using this confidential business information will be treated as confidential. After evaluating the control options, GCA will return the confidential business information and any reports prepared by GCA to EPA.

Since GCA will review information claimed to be confidential, EPA is publishing this notice to inform all submitters of inventory (section 8(b)) and section 8(a) information that GCA will receive confidential business information from EPA.

GCA is legally required under the terms of its contract to safeguard from any unauthorized disclosure the confidential business information and any other information generated during GCA's analysis. GCA's contract specifically prohibits disclosure of any of this information to any third party in any form without prior written authorization from EPA.

GCA has been authorized under the EPA TSCA Confidential Business Information Security Manual to have access to confidential business information. EPA has approved GCA's security plan. EPA's Office of the Inspector General has conducted the required inspection of the GCA facilities and has found them to be in compliance with the requirements of the Security Manual.

GCA is required to handle in accordance with this Manual all information and any reports prepared by GCA that contain information claimed to be confidential.

(Secs. 6, 8 of TSCA (Pub. L. 94-469, 90 Stat. 2003, (15 U.S.C. 2601 *et. seq.*))

Dated: August 26, 1980.

Walter W. Kovalick, Jr.,

Acting Deputy Assistant Administrator for Program Integration and Information.

[FR Doc. 80-26970 Filed 9-3-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. A-17]

AM Broadcast Applications Accepted for Filing and Notification of Cutoff Date

Released: September 3, 1980.

Cutoff Date: October 3, 1980.

Notice is hereby given that the applications listed in the attached appendix are hereby accepted for filing. They will be considered to be ready and available for processing after October 3, 1980. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on October 3, 1980, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., not later than the close of business on October 3, 1980.

Petitions to deny any application on this list must be on file with the Commission not later than the close of business on October 3, 1980.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

BP-781221AF (WEGA), Vega Baja, Puerto Rico, Vega Baja Broadcasting Corp., Has: 1350 kHz, 500 W, DA-2, U, Req: 1330 kHz, 2.5 kW, DA-2, U.

BP-790125AC (WYFC), Ypsilanti, Michigan, Word Broadcasters, Inc., Has: 1520 kHz, 250 W, D, Req: 1520 kHz, 500 W, 1 kW-LS, DA-2, U.

BP-790514AA (WENA), Penuelas, Puerto Rico, Penuelas Broadcasters, Has: 1330 kHz, 500 W, D, Req: 1330 kHz, 1 kW, D.

BP-790621AB (WXOX), Essexville, Michigan, Gateway Broadcasting Company, Has: 1250 kHz, 1 kW, D, Req: 1250 kHz, 5 kW, DA-2, U.

BP-790719AG (KBND), Bend, Oregon, DBND, Inc., Has: 1110 kHz, 1 kW, 10 kW-LS, DA-N, U, Req: 1110 kHz, 5 kW, 25 kW-LS, DA-N, U.

BP-790827AI (new), Mt. Juliet, Tennessee, Bryant Radio Co., Req: 1330 kHz, 500 W, DA-D.

BP-790831AJ (new), Clintonville, Wisconsin, Mr. Jeff Smith, Req: 1380 kHz, 2.5 kW, 5 kW-LS, DA-2, U.

BP-790924AB (WOBR), Wanchese, North Carolina, WOBR, Inc., Has: 1530 kHz, 250 W, D, Req: 1530 kHz, 1 kW, DA-D.

BP-791105AI (WQBK), Rensselaer, New York, People Communication Corp., Has: 1300 kHz, 5 kW, DA-D, Req: 1300 kHz, 5 kW, DA-2, U.

BP-791108AC (WAAK), Dallas, North Carolina, WAAK, Inc., Has: 960 kHz, 1 kW, D, Req: 960 kHz, 500 W, 1 kW-LS, DA-N, U.

BP-791119AH (WARV), Warwick, Rhode Island, Blount Communications, Inc., Has: 1590 kHz, 1 kW, D, Req: 1590 kHz, 5 kW, DA-2, U.

BP-791127AB (new), Cave Junction, Oregon, Larry Mike Tardie and Gerald Lynn Grooms, d.b.a. Illinois Valley Radio, Req: 1400 kHz, 250 W, 1 kW-LS, U.

BP-791129AA (KHOT), Madera, California, Madera Wireless Co., Inc., Has: 1250 kHz, 500 W, D, Req: 1250 kHz, 500 W, DA-N, U.

BP-791211BG (new), Manchester, Kentucky, Larry A. & Lynda L. Barker d.b.a. Barker Broadcasting Co., Req: 1290 kHz, 2.5 kW, DA-D.

BP-791221AE (KROI), Sparks, Nevada, Jonsson Communications Corp., Has: 1270 kHz, 1 kW, D, Req: 1270 kHz, 5 kW, DA-2, U.

BP-791228BB (new), Lexington, Alabama, Roger W. Wright, K. Dwayne Wright and John C. Sanders, Jr., Req: 620 kHz, 500 W, D.

BP-800107AT (WRNG), North Atlanta, Georgia, Ring Radio Company, Has: 680 kHz, 10 kW, 25 kW-LS, DA-N, U, Req: 680 kHz, 10 kW, 50 kW-LS, DA-2, U.

BP-800110AF (WCLG), Morgantown, West Virginia, Freed Broadcasting Corporation, Has: 1300 kHz, 1 kW, D, Req: 1300 kHz, 2.5 kW, D.

BP-800114AF (KBSN), Crane, Texas, Albert L. Crain, Has: 810 kHz, 1 kW, D, Req: 810 kHz, 500 W, 1 kW-LS, DA-N, U.

BP-800117AF (KJLA), Kansas City, Missouri, Osborn Communications Corporation, Has: 1190 kHz, 250 W, 1 kW-LS, DA-N, U, Req: 1190 kHz, 250 W, 5 kW-LS, DA-N, U.

BP-800123AJ (new), Morton, Washington, Morton Radio, Inc., Req: 1310 kHz, 1 kW, D.

BP-800201AP (KTXJ), Jasper, Texas, KTXJ, Radio, Inc., Has: 1350 kHz, 1 kW, D, Req: 1350 kHz, 5 kW, D.

BP-800207 (KVEL), Vernal, Utah, KVEL, Inc., Has: 920 kHz, 5 kW, D, Req: 920 kHz, 12 kW, 5 kW-LS, DA-N, U.

BP-800215AN (new), Birch Tree, Missouri, Jack G. Hunt, Req: 1310 kHz, W, D.

BP-800221AM (WLRV), Lebanon, Virginia, J. T. Parker Broadcasting Co., Inc., Has: 1380 kHz, 500 W, D, Req: 1380 kHz, 1 kW, D.

BP-800226AN (KFML), Westminister, Colorado, Radio Denver Corp., Has: 1390 kHz, 5 kW, D (Denver), Req: 1390 kHz, 1 kW-LS, DA-2, U (Westminister).

BP-800320AD (WHIY), Moulton, Alabama, Moulton Broadcasting Co., Inc., Has: 1190 kHz, 1 kW, D, Req: 1190 kHz, 2.5 kW, D.

BP-800403AD (new), Silverton, Colorado, Longhorn, Communications, Inc., Req: 1450 kHz, 250 W, 1 kW-LS, U.
BP-800715AE (KLAT), Houston, Texas, Spanish Broadcasting Corporation, Has: 1010 kHz, 5 kW, DA-D, Req: 1010 kHz, 1 kW, 5 kW-LS, DA-2, U.
BP-800819AG (WMSO), Collierville, Tennessee, Albert L. Crain, Has: 1590 kHz, 500 W, D, Req: 630 kHz, 500 W, D.

[FR Doc. 80-26952 Filed 9-3-80; 8:45 am]
BILLING CODE 6712-01-M

[CC Docket No. 80-339, et al.]

ITT World Communications, Inc., et al.; Revisions to Tariff

Adopted: August 13, 1980.
Released: August 18, 1980.
By the Chief, Common Carrier Bureau.

In the matter of ITT World Communications, Inc., CC Docket No. 80-339; Transmittal Nos. 2258, 2259, 2260, 2280; RCA Global Communications, Inc., Transmittal Nos. 4610, 4611, 4613, 4614, 4615, 4616, 4636; TRT Telecommunications Corporation, Transmittal Nos. 909, 910, 911; Western Union International, Inc., Transmittal Nos. 1430, 1431, 1447; Western Union International Caribbean, Inc., Transmittal No. 224; FTC Communications, Inc., Transmittal No. 69. Revisions to tariffs for establishing separate charges for terminals, tielines, and transmission offered in connection with international telex service and implementing expanded gateways and additional domestic operating areas for international telecommunications service (45 FR 56440); Memorandum Opion and Order.

1. Presently before the Chief, Common Carrier Bureau, are tariff revisions filed by three of the international record carriers (IRCs).[1] Each carrier proposes to offer international telex customers the option of renting international telex access lines within the Standard Metropolitan Statistical Area (SMSA) for each of its operating areas at the rate of $20 per month as an alternative to customers furnishing their own access lines at their own expense.

2. Each of the carriers states that it filed its tariff revisions for the purpose of matching earlier-filed revisions by TRT Telecommunications Corporation (TRT). TRT's revisions were set for hearing in Docket No. 80-339, *ITT World Communications, Inc.* (*ITT*), FCC 80-386, released August 8, 1980. The Commission was concerned that the $20 TRT rate, which was derived, in part, from an averaging of the cost of traditional customer access line arrangements, failed to properly account for the likelihood that customers would lease local access lines at cost where the charge was less than $20 per month, but would lease access lines from TRT at $20 per month when the charge was greater than $20 per month. This would result in TRT subsidizing many of the customer access lines. The Commission was also concerned that TRT's access line costs were based on traditional access arrangements rather than estimates of the costs of accessing the expanded points of operation, which include SMSAs rather than city boundaries.

3. Since the instant revisions, which are identical to TRT's, raise the same questions of lawfulness found by the Commission with respect to TRT's revisions, we will consolidate the tariff filings under consideration with the investigation already ordered in Docket No. 80-339. These carriers will be required to justify their $20 per month access line charge by providing expense and investment data as outlined in Part II of the Appendix to *ITT*. Because the pleading periods are lengthy, and no new issues are raised, we do not see any need for extending the pleading dates.

4. Accordingly, it is ordered, pursuant to delegated authority contained in Section 0.291 of the Commission's Rules, 47 C.F.R. § 0.291, and pursuant to Sections (4)(i)—(j), 201-205, and 403 of the Communications Act, 47 U.S.C. §§ 154(i)(j), 201-205, and 403, that an investigation is instituted into the following issue:

Whether the local access charges proposed by ITT in its Transmittal No. 2280 as revisions to its Tariff F.C.C. Nos. 7 and 12, by RCA in its Transmittal No. 4636 as revisions to its Tariff F.C.C. Nos. 60, 88, and 90, and by WUI in its Transmittal No. 1447 as revisions to its Tariff F.C.C. Nos. 5 and 12 are just and reasonable and otherwise lawful.

5. It is further ordered, That this investigation shall be consolidated with the investigation ordered in *ITT*, FCC 80-386 and subject to the procedures established in that order.

Sue D. Blumenfeld,
Acting Chief, Common Carrier Bureau.

[FR Doc. 80-26957 Filed 9-3-80; 8:45 am]
BILLING CODE 6712-01-M

[1] Western Union International, Inc. (WUI) filed Transmittal No. 1447 on July 3, 1980, RCA Global Communications, Inc. (RCA) filed Transmittal No. 4636 on July 15, 1980, and ITT World Communications, Inc. (ITT) filed Transmittal No. 2280 on July 17, 1980.

[BC Docket No. 80-417, File No. BPED-2208; BC Docket No. 80-418, File No. BPED 2245]

Academy Radio Corp. and Christian Broadcasting Corp.; for Construction Permits for a New Noncommercial Educational FM Station; Correction

Released: August 19, 1980.

In the matter of applications of Academy Radio Corporation, Rio Piedras, Puerto Rico, Req: 90.5 MHz, Channel 213, 4.427 kW (H&V), minus 104 feet; and Christian Broadcasting Corporation, Carolina, Puerto Rico, Req: 90.5 MHz, Channel 213, 25 kW (H&V), 1,869 feet.[1]

1. By Hearing Designation Order released August 1, 1980, the above-captioned mutually exclusive applications for new stations were designated for hearing. Inadvertently, however, the contingent comparative issue that was specified did not contain the unique language applicable to noncommercial educational applicants. That error is hereby corrected.

2. Accordingly, it is ordered, that Issue 4 in this proceeding is corrected as follows:

4. To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to Section 307(b), the extent to which each of the proposed operations will be integrated into the overall cultural and educational operation and objectives of the respective applicants as well as the manner in which such objectives meet the needs of the communities to be served; and/or whether other factors in the record demonstrate that one applicant will provide a superior educational FM broadcast service.

Federal Communications Commission.
Jerold L. Jacobs,
Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 80-26954 Filed 9-3-80; 8:45 am]
BILLING CODE 6712-01-M

[PR Docket No. 80-511 File Nos. 016941/a-GB-50** and 018197-YX-50**]

Bay Communications, Inc., and Bay Radio Communications; Designating Application for Hearing on Stated Issues

Adopted: August 15, 1980.
Released: August 21, 1980.
By the Chief, Private Radio Bureau.

In the matter of applications of Bay Communications, Inc., and Bay Radio Communications, 1555 Third Avenue,

[1] See 45 FR 56187.

Walnut Creek, California 94596, for authorization for new conventional and trunked specialized mobile relay facilities in the 806–821 and 851–866 MHz bands.

1. The Chief, Private Radio Bureau (the Bureau) has before him for consideration the above-captioned applications of Bay Communications, Inc., and Bay Radio Communications for authorization of new conventional and trunked Specialized Mobile Radio facilities in the 806–821 MHz and 851–866 MHz bands. The applicants have advised the Bureau that Bay Radio Communications is a trade name of Bay Communications, Inc., (Bay Communications), so that the two above-captioned applicants are the same. They will be so treated herein. The applications of Bay Communications, Inc. (File Nos. 016941/2–GB–50**) were filed April 30, 1980, and seek authorization of conventional Specialized Mobile Relay facilities on Mount Tamalpais near Mill Valley and in Mt. Diablo State Park near Walnut Creek, California. The application of Bay Radio Communications (File No. 018197–YX–50**) was filed May 14, 1980, and seeks authorization of five-channel trunked Specialized Mobile Relay facilities on Mount Tamalpais.

2. Also before the Bureau is information concerning an investigation conducted by the San Francisco District Office of the Commission's Field Operations Bureau into unlicensed operation of facilities in the Business Radio Service by Mello's Sheet Metal, Inc., (Mello) of Antioch, California. It appears from the San Francisco office's investigation that Mello's unlicensed operation commenced on September 24, 1979, and continued until it was discovered by the Field Operations Bureau on November 1, 1979.[1] That investigation also indicates that Mello's unlicensed operation was made possible through the provision to Mello of radio facilities by Artex Enterprises, Inc., of Pacheco, California (Artex). Artex also installed and tested the equipment, and permitted Mello to operate control the mobile facilities in conjunction with a mobile relay station owned by Artex. The President of Artex at the time of Mello's unlicensed operation was David P. Herrman. Bay Communications has advised the Bureau, in an amendment to the above-captioned applications, that Herrman is its President as well as a stockholder and director of the applicant.

3. The information before the Bureau concerning Mello's unlicensed operation raises serious questions as to whether Bay Communications or Herrman possess the requisite character qualifications or are sufficiently competent or show sufficient interest with respect to the licensing and implementation of radio facilities to receive a grant of the authorizations which are here sought. Because the Bureau cannot make the necessary finding, pursuant to Section 309(a) of the Communications Act of 1934, as amended, that a grant of the above-captioned applications would serve the public interest, convenience and necessity, the applications must, in accordance with Section 309(e) of the Act, be designated for evidentiary hearing.

4. Accordingly, it is ordered, that in accordance with the provisions of Section 309(e) of the Communications Act of 1934, as amended (47 U.S.C. 309(e)), the above-captioned applications of Bay Communications, Inc., File Nos. 016941/2–GB–50** and 018197–YX–50**, for authorization of new conventional and trunked mobile relay facilities in the 806–821 and 851–866 MHz bands are, pursuant to authority delegated in Sections 0.131(a) and 0.331 of the Commission's Rules, designated for hearing, at a time and place to be specified at a later date, on the following issues:

(a) To determine whether David P. Herrman or Alex Enterprises, Inc., through its officers and/or directors and/or stockholders and/or employees and/or agents, knowingly or willfully or negligently participated in or abetted the unlicensed radio operations of Mello's Sheet Metal, Inc.

(b) To determine, in light of the evidence adduced pursuant to issue (a) hereinabove, whether Bay Communications, Inc., and David P. Herrman possess the requisite character qualifications to receive a grant of the applications which are the subject of this proceeding.

(c) To determine, in light of the evidence adduced pursuant to issue (a) hereinabove, whether David P. Herrman has exhibited such lack of interest or carelessness concerning the conduct of his affiars with respect to the licensing and implementation of his customer's radio facilities that he and Bay Communications, Inc., should not be entrusted with the radio authorizations which they are here seeking.

(d) To determine, in light of the evidence adduced pursuant to each of the foregoing issues, what disposition of the above-captioned applications of Bay Communications, Inc., will best serve the public interest, convenience and necessity.

5. It is further ordered, that Bay Communications, Inc., and the Chief, Private Radio Bureau are made parties in this proceeding.

6. It is further ordered, that the burden of proceeding with the introduction of evidence and the burden of proof are, pursuant to Section 309(e) of the Communications Act of 1934, as amended, and Sections 1.254 and 1.973(e) of the Commission's Rules, upon Bay Communications, Inc., with respect to the issues set forth in paragraph 4 hereinabove.

7. It is further ordered, that each of the parties named in paragraph 5 hereinabove, in order to avail itself of the opportunity to be heard, shall within 20 days of the mailing of this notice of designation by the Secretary of the Commission, file with the Commission, in triplicate, a written notice of appearance that it will appear on the date fixed for hearing and present evidence on the issues specified in this Order, as prescribed in Section 1.221 of the Commission's Rules.

8. It is further ordered, that the Secretary of the Commission shall serve a copy of this Order, by Certified Mail, Return Receipt Requested, upon Bay Communications, Inc., at the address furnished in its applications.

Federal Communications Commission.

Arlan K. van Doorn,

Acting Chief, Private Radio Bureau.

[FR Doc. 80-26625 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

[1] Mello's applications for authorization of the facilities used in its unlicensed operation were designated for evidentiary hearing by the Bureau (PR Docket No. 80–111, Memorandum Opinion and Order, released March 20, 1980). The Presiding Administrative Law Judge subsequently dismissed Mello's applications with prejudice at the applicant's request (Order, FCC 80M–952, released June 11, 1980).

[BC Docket No. 80–321, File No. BPED 2306; BC Docket No. 80–322; File No. BPED 2428]

Craig Bible Institute and Bangor Christian Schools; Hearing Designation Order; Correction

Released: August 15, 1980.

In re applications of Craig Bible Institute, Bangor, Maine, Req. 88.5 MHz, Channel 203 0.45 kW (H&V),—15 feet (BC Docket No. 80–321, File No. BPED 2306), and Bangor Christian Schools, Bangor, Maine, Req. 88.5 MHz, Channel 203 16 kW (H&V), 785 feet, (BC Docket No. 80–322 File No. BPED 2428), for construction permit for a new FM station; correction (45 FR 56188).

1. By Hearing Designation Order released July 10, 1980, the above-captioned mutually exclusive application for new stations were

designated for hearing. Inadvertently, however, the comparative issues applicable to both noncommercial educational and commercial applicants were included.

2. Accordingly, it is ordered, that Issue 4 in this proceeding is deleted.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-26593 Filed 9-3-80, 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 80-431; File No. BPCT-780907KK, et al.]

DuPage College, Ill., etc.; Hearing Designation Order

Adopted: July 31, 1980.

Released: August 7, 1980.

In the matter of: College of DuPage, Glen Ellyn, Illinois, BC Docket No. 80-431 File No. BPCT-78090KK; Metrowest Corporation, Aurora, Illnois, BC Docket No. 80-432 File No. BPCT-78090KL; and Hispanic American Television-Chicago, A Limited Partnership (Marcelino Miyares General Partner) and Aurora Chicago Telecasters Inc. A Joint Venture d/b/a HATCO-60 West Chicago, Illinois, BC Docket No. 80-433 File No. BPCT-780907KM, for construction permit.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, has before it the above-captioned mutually exclusive applications for authority to construct a new television station on Channel 60, which is presently allocated to Aurora, Illinois.

Preliminary Matters

2. The application of HATCO-60 contemplates operating subscription television (STV) over its proposed station. HATCO-60 has an application for STV authorization pending before the Commission. The STV application will not be consolidated for hearing in this proceeding, however. STV is essentially an entertainment format indistinguishable from other entertainment packages except that is supported directly by viewers' subscriptions rather than by advertising revenues. Accordingly, the Commission's reluctance to compare applicants on the basis of entertainment formats expressed in *George E. Cameron, Jr. Communications,* 71 FCC 2d 460 (1979), provides ample precedent for precluding consideration of STV proposals in otherwise routine hearings on applications for television construction permits.

3. HATCO-60 proposes operation of a UHF television station from a transmitter located within 250 miles of the Canadaia border with maximum visual effective radiated power (ERP) in excess of 1000 kW but not exceeding 5000 kW. While this proposal poses no interference threat to United States television stations, it contravenes an agreement between the United States and Canada which limits the maximum visual ERP of American television stations located within 250 miles of Canada to 1000 kW. *Agreement Effectuated by Exchange of Notes,* T.I.A.S. 2594 (1952). Since the Commission lacks authority to waive international agreements, any construction permit granted HATCO-60 in this proceeding will be conditioned to preclude station operation with maximum visual ERP in excess of 1000 kW absent Canadian consent.

College of DuPage

4. Analysis of College of DuPage's (CDP's) financial showing reveals that applicant requires $1,411,870 to construct its proposed station and an addition $60,200 to operate it for three months. To meet these costs, CDP relies upon the following

State, county, municipal appropriations	$352,968
Federal grants	1,058,902
Schools, colleges or universities	35,000
Project income (from one quarter's tuition)	51,400
Total	1,498,270

5. CDP has not documented the availability of $1,411,870 in governmentally appropriated funds and federal grants as required in Question 2(a), Section III, FCC Form 340, and, therefore, questions exist concerning the availability of these funds. Further, applicant has not submitted a balance sheet establishing the availability of $35,000 of its funds for constructing and operating the proposed station. An issue will be specified inquiring into the availability of these funds.

6. CDP has not conducted an ascertainment of community problems, interests and needs in connection with its application. Ascertainment showings are required of noncommercial educational television applicants. See *Ascertainment of Community Problems,* 58 FCC 2d 526 (1976). An issue will be specified exploring the effect of this omission upon applicant's basic qualifications.

7. CDP's technical proposal indicates that the overall height above ground of applicant's transmitting facilities will be 503 feet. The Federal Aviation Administration's (FAA) aeronautical evaluation of CDP's proposal was apparently based on an overall height above ground of 293 feet. Accordingly, a question exists as to whether CDP's proposal constitutes an air hazard. An appropriate issue will be specified exploring this matter and the FAA will be made a party to this proceeding.

Metrowest Corp.

8. Applicants for new broadcast stations are required by Section 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. They must then file with the Commission the statement described in Section 73.3580(h) of the Rules. We have no evidence that Metrowest published the required notice. To remedy this deficiency, Metrowest will be required to publish local notice of its application and to file a statement of publication with the presiding Administrative Law Judge.

9. Analysis of Metrowest's financial showing reveals that it will require $1,000,000 to construct its proposed station and an additional $218,000 to operate the station for three months. To meet these costs, applicant relies upon a $1,500,000 loan from Heller-Oak Communications Finance Corp. The availability of this loan has not been supported by documentation responsive to the requirements of Question 4(e), Section III, FCC Form 301. Accordingly, an issue will be specified inquiring into applicant's financial qualifications.

10. The aural transmitter power output proposed by Metrowest is in excess of the rated power for which the transmitter applicant intends to use. Accordingly, any construction permit awarded Metrowest in this proceeding will be conditioned to require type acceptance of the aural transmitter prior to commencement of station operation on program test authority.

Section 307(b) Considerations

11. The respective proposals are for different communities. Consequently, it will be necessary to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service. Accordingly, appropriate issues will be specified.

Conclusion and Order

12. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated

proceeding on the issues specified below.

13. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to College of DuPage:

(a) the source and availability of funds over and above the $51,400 indicated; and

(b) whether, in light of the evidence adduced pursuant to (a) above, applicant is financially qualified.

2. To determine, with respect to College of DuPage, the efforts made by applicant to ascertain the community needs and problems of the area to be served; the means by which the applicant proposes to meet those needs and problems; and the effect thereof on applicant's basic qualifications.

3. To determine whether there is a reasonable possibility that the tower height and location proposed by College of DuPage would constitute a hazard to air navigation.

4. To determine with respect to Metrowest Corporation:

(a) the source and availability of funds to construct and operate the proposed station; and

(b) whether in light of the evidence adduced pursuant to (a) above, applicant is financially qualified.

5. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

6. To determine, in the event it is concluded that a choice among the applications should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

7. To determine on the basis of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

14. It is further ordered, That, the event of a grant of the application of Hatco–60 the construction permit shall contain the following condition:

Operation with maximum visual effective radiated power in excess of 30 dBk (1000 kW) is subject to consent by Canada.

15. It is further ordered, That, in the event of a grant of the application of Metrowest Corporation, the construction permit shall contain the following condition:

Before program tests commence, the transmitter specified herein shall be type-accepted in accordance with Section 73.1660 of the Commission's Rules to permit aural transmitter power output in excess of rated power.

16. It is further ordered, That Metrowest Corporation shall publish local notice of its application and shall file a statement of publication with the presiding Administrative Law Judge.

17. It is further ordered, That the Federal Aviation Administration IS MADE A PARTY to the proceeding.

18. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

19. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 80-26948 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 80-445, File No. BPCT-5173, et al.]

O.T.R.H., Inc., The Old Time Religion Hour, Inc., et al.; Designating Application for Consolidated Hearing on Stated Issues

Adopted: August 1, 1980.

Released: August 12, 1980.

In re Applications of The O.T.R.H., Inc., The Old Time Religion Hour, Inc., Galveston, Texas (BC Docket No. 80–445 File No. BPCT–5173), Alden Communications of Texas, Inc., Galveston, Texas (BC Docket No. 80–446 File No. BPCT–780907KE), and Bluebonnet Broadcasting Company, Galveston, Texas (BC Docket No. 80–447 File No. BPCT–780907KF), for a construction permit.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of The Old Time Religion Hour, Inc. (Old Time), Alden Communications of Texas, Inc., and Bluebonnet Broadcasting Company for a new commercial television station to operate on Channel 48, Galveston, Texas.

2. Section 73.613 of the Commission's Rules requires that the main studio of a television station be located within the city of license, but that on a showing of good cause, the main studio may be located outside that community. Old Time proposes to locate its main studio adjacent to its transmitter site within the city limits of Friendswood, Texas; however the applicant has failed to provide the required good cause showing. As a result, a studio location issue will be specified.

3. Section 1.1311 of the Commission's Rules requires that an environmental narrative statement be submitted when an applicant proposes an antenna supporting structure higher than 300 feet above ground level. Old Time proposes an antenna tower 1196 feet above ground; however, the applicant has failed to submit the required narrative. In its application, Old Time states that its proposed site, 0.28 miles from another tower, is part of an official antenna farm; however, the Commission has not so designated that area. Consequently, we will provide that within 30 days of the date of release of this Order, Old Time will file an environmental narrative statement.

4. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that grant of them will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues set out below. In all other respects, the applicants are qualified to construct and operate as proposed.

5. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding to be held before an Administrative Law Judge at a time and place to be a specified in a subsequent Order, upon the following issues:

1. To determine whether Old Time's application is in compliance with Section 73.613 of the Commission's Rules with respect to the proposed location of the main studio and, if not, whether good cause exists for the proposed location.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

6. It is further ordered, That, within 30 days of the date of release of this Order, Old Time shall file with the Commission an environmental narrative statement as required by Section 1.1311 of the Commission's Rules.

7. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, written appearances stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

8. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 80-26911 Filed 9-3-80; 8:45 am]

BILLING CODE 6712-01-M

[FCC 80-470; BC Docket No. 80-436, File No. BPCT-5053; BC Docket No. 80-437, File No. BPCT-5124]

Son Broadcasting, Inc., and New Mexico Media Co.; Designating Applications for Consolidated Hearing on Stated Issues

In the matter of applications of Son Broadcasting, Inc., Santa Fe, New Mexico For Construction Permit for New Television Broadcast Station and New Mexico Media Co., Santa Fe, New Mexico For Construction Permit for New Television Broadcast Station; Memorandum Opinion and Order.

Adopted: July 31, 1980.

Released: August 27, 1980.

By the Commission:

1. The Commission has before it for consideration the above-captioned of Son Broadcasting, Inc. (SON), filed June 1, 1977, for a new television broadcast station on Channel 11, Santa Fe, New Mexico, and the following pleadings related to SON's application: (a) a Request for Waiver of the One-to-a-Market Rule (Section 73.636) filed by SON on June 1, 1977; (b) an informal objection filed by Dr. Robert G. Hillman, Santa Fe, New Mexico, on June 27, 1977;[1] (c) a Petition to Deny filed by KOAT Television, Inc., (KOAT), licensee of television broadcast Station KOAT-TV, Channel 7, Albuquerque, New Mexico, on September 12, 1977; (d) an Objection to Application filed by Eugene D. Adelstein and Edward B. Berger (Southwest TV) on February 13, 1978;[2] (e) a statement filed by Hubbard Broadcasting, Inc. (KOB), licensee of television broadcast Station KOB-TV, Channel 4, Albuquerque, New Mexico, on April 19, 1978; (f) a statement filed by Spanish TV of New Mexico, Inc. (KMXN), licensee of television broadcast Station KMXN-TV, Channel 23, Albuquerque, New Mexico, on July 31, 1978; (g) an Extraordinary Request for Oral Argument filed by SON on December 6, 1978; (h) an informal objection ot the above-captioned application filed by Galaxy Broadcasting, Inc. (Galaxy), on January 18, 1979 (i) a Petition for Consolidated Hearing filed by KOAT on February 13, 1979; and (j) related pleadings listed in Appendix A.

2. The Commission also has before it for consideration the above-captioned application of New Mexico Media Co. (NMM), filed September 12, 1977, for a new television broadcast station on Channel 2, Santa Fe, New Mexico[3] and the following pleadings related to NMM's application: (a) a Petition to Deny filed by Hubbard Broadcasting, Inc. (KOB), licensee of television broadcast station KOB-TV, Channel 4, Albuquerque, New Mexico, on April 18, 1978; (b) a Petition to Deny filed by New Mexico Broadcasting Company, Inc. (KKGM), licensee of television broadcast station KGGM-TV, Channel 13, Albuquerque, New Mexico, on May 22, 1978; (c) a Petition to Deny filed by Eugene D. Adelstein and Edward B. Berger (Southwest TV) on May 22, 1978; (d) a statement filed by KMXN on July 31, 1978; (e) an informal objection filed by the United States Secret Service on August 11, 1978;[4] (f) a Statement in Support of Request for Oral Argument filed by NMM on December 8, 1978[5] (g) an informal objection to NMM's application filed by Galaxy on January 18, 1979; (h) a Petition for Consolidated Hearing filed by KOAT on February 13, 1979; and (i) related pleadings listed in Appendix B.

Standing

3. We find that KOB, KGGM and KOAT have standing to file their Petitions to Deny under *F.C.C. v. Sanders Brothers Radio Station*, 309 U.S. 470 (1940). Their contours substantially encompass the area to be served by SON's and NMM's proposed stations. KOB, KGGM and KOAT will compete for audience and revenue with SON's and NMM's proposed stations within their common service area.

4. SON claims that Southwest TV's informal objection against SON's application is, instead, an untimely petition to deny filed by two people (Adelstein and Berger) who have no standing to file such a pleading. The only time limitation on filing informal objections is that they be filed before Commission action on the application. Section 73.3587 of our Rules allows "any person" to file an informal objection. Southwest TV has filed a proper informal objection.

City Grade Coverage

5. Both SON and NMM propose to serve Santa Fe, New Mexico, from transmitters located at Sandia Crest, a peak approximately 43 miles southeast of Santa Fe and 14 miles northeast of Albuquerque, New Mexico. It is the transmitter site of most of Albuquerque's television stations.

6. In their applications and pleadings, both SON and NMM assert that their

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[1] Dr. Hillman's objection is based exclusively on the likely subject matter, as he sees it, or much of the proposed station's programming. No issue will be designated relating to Dr. Hillman's objection. Programming is a matter of licensee discretion.

[2] Eugene D. Adelstein and Edward B. Berger were general partners of Southwest Television. Ltd., which had applied for authority to construct a new television station on Channel 14, Albuquerque, New Mexico. Southwest TV's application was mutually exclusive with that of Galaxy Broadcasting, Inc. for Channel 14. Southwest TV and Galaxy have merged into a single partnership called Galaxy-Southwest Televison's application for Channel 14 has been granted.

[3] NMM's original September 12, 1977, application specified Channel 11. By amendment filed November 28, 1977, NMM revised its application to specify operation on Channel 2.

[4] The Secret Service's objection relates to possible proximity interference to one of its radio repeater stations from third order harmonics of Channel 2. Rather than specifying an issue on this matter, we note that Section 73.687(i)(1) of the Commission's Rules permits us to require greater attenuation in the event of interference, including interference due to radio frequency harmonics, at as low a level as the state of the art permits. Interference of this nature should be brought to our attention for possible corrective measures if it occurs.

[5] This statement, filed in the BPCT-5124 application proceeding, is in support of an Extraordinary Request for Oral Argument filed by Son Broadcasting, Inc., (SON), on December 6, 1978, in relation to SON's June 1, 1977, application (BPCT-5053) for authority to construct a new television broadcast station on Channel 11, Santa Fe, New Mexico. NMM's statement supporting oral argument will be treated as a separate request for oral argument regarding NMM's captioned application.

proposed stations will provide city grade service to Santa Fe as required by Section 73.685(a) of the Rules. It appears, however, that neither SON nor NMM has supported this claim with coverage predictions made in accordance with Section 73.684. Instead, they have submitted measurements taken in Santa Fe on the signal strengths of existing television stations located on Sandia Crest and licensed to serve Albuquerque, New Mexico.

7. It appears that both SON and NMM seek to demonstrate city grade service to Santa Fe by using field measurements. In *FM and TV Field Strength Curves,* 53 FCC 2d 855, 34 P & F Radio Reg. 2d 361 (1975), we made it clear that matters of administrative convenience and finality require that no right be given applicants to determine service contour locations by means of field strength measurements. Individual measurements are allowed only "when the location of TV contours, as determined by prediction, are obviously in gross error" and then only "upon request of the Commission." *Id.* In the instant cases there has been no showing that the prediction method of Section 73.684 of the Rules will produce results which are obviously in gross error and we have not requested measurements. Accordingly, an issue will be designated against SON and against NMM to determine whether their coverage predictions were made in accordance with Section 73.684 of our Rules, whether their transmitter locations are consistent with Section 73.685(a) of our Rules and, if not, whether circumstances warrant waivers of these rules.

De Facto Reallocation

8. Petitioners and Objectors allege that applicants' primary concern in applying for their proposed television stations is to serve Albuquerque. Their transmitters will be located at the transmitter site of most of Albuquerque's television stations and Albuquerque will receive a signal in each instance superior to that received by Santa Fe. Petitioners also question whether city grade service will be provided Santa Fe in light of the methodology used in determining their stations' service contours. Petitioners allege that location of SON and NMM transmitters at Sandia Crest would preclude service to a substantial unserved area northeast of Santa Fe—an area which could be expected to receive service from a station with a transmitter located closer to Santa Fe. Additionally, Southwest TV alleges that SON's use of an Albuquerque radio station to conduct fund raising activities for the television station raise an inference that SON is seeking to serve the Albuquerque market.

9. SON contends that a *de facto* reallocation issue is not warranted since it has chosen the "most efficient" site to serve Santa Fe. In an amendment to its application filed December 21, 1977, SON advances the following arguments in support of its transmitter site: (1) a city-grade contour will be provided over Santa Fe from the site; (2) location at any other site will create antenna orientation problems; (3) choice of the site fosters increased competition among television stations; (4) any other site would severely restrict Channel 11's signal in the communities surrounding Santa Fe; (5) alternate transmitter sites are economically impractical; and (6) the best way to serve the mountainous area north of Santa Fe is through television translators. In its pleadings, SON further asserts that its application meets all applicable Commission engineering standards, that its studio will be located in Santa Fe and that its ascertainment efforts demonstrate its intent to serve Santa Fe.

10. NMM contends that choice of Sandia Crest as a transmitter site, coupled with provision of a stronger signal to Albuquerque that to Santa Fe, does not, of itself, constitute *de facto* reallocation. NMM points to its only proposed studio location in Santa Fe as one indication that *de facto* reallocation is not intended.

11. Both applicants in these proceedings maintain that the question of *de facto* reallocation can be resolved by simply determining whether an applicant's proposal meets our spacing requirements, places a city grade contour over its community of license and locates its studio within its community of license. All of these factors bear heavily on, but are not solely determinative of, the *de facto* reallocation question.

12. Moreover, it appears that neither SON nor NMM has shown their applications to be technically sufficient. Neither SON nor NMM has shown that they will provide Santa Fe with city grade service. It does, however, appear that both SON and NMM will provide city grade service to Albuquerque.

In their efforts to demonstrate city grade coverage of Santa Fe based on measurements of Albuquerque stations' signals, both SON and NMM seem to contend that their proposed facilities will roughly duplicate the coverage of the Albuquerque VHF stations.

13. *De facto* reallocation has been designated as an issue where distinctive circumstances evince particular concern. Such circumstances may include expressed Commission concern regarding certain channel assignments. *Brinsfield Broadcasting Co.,* 21 FCC 2d 707 (Rev. Bd. 1970). *See also, Christian Voice of Central Ohio,* 15 FCC 2d 308 (Rev. Bd. 1968). The Commission has expressed just that type of concern—in this instance, relating to the lack of any television service northeast of Santa Fe—in past decisions regarding this geographical area. *Santa Fe Television, Inc.,* 18 FCC 2d 741 (1969). In that case, a Santa Fe applicant specifying a Sandia Crest transmitter location was designated for hearing on the *de facto* reallocation issue. The instant applications will preclude the same area northeast of Santa Fe from receiving *any* regular television service.[6]

14. For the above reasons, a *de facto* reallocation issue will be designated against SON and against NMM.[7]

UHF Impact

15. Petitioners have requested a UHF impact issue against SON and against NMM. The question of whether an issue should be designated against SON regarding possible adverse impact on the development and continued existence of UHF stations in Albuquerque was raised by KOAT in its January 17, 1978, request for expedited consideration; by Southwest TV in the Objection to Application filed by Adelstein and Berger on February 13, 1978; by a letter from KMXN–TV (Channel 23, Albuquerque) received July 31, 1978; and by other related pleadings. KMXN's concerns are mostly related to availability of a transmitter site for KMXN. KOAT and Southwest TV, providing no qualitative or quantitative measurement or analysis of applicant's potential impact on Albuquerque's UHF stations, rely primarily on the designation of a UHF-impact issue in the most recent proceeding involving similar circumstances, *Santa Fe Television, Inc., supra.*

16. KMXN is concerned that if SON's or NMM's application is granted, it might preclude KMXN from obtaining

[6] Because the location of both applicants' transmitters may control whether people living northeast of Santa Fe receive any television service at all, and because the applicants have not shown by the prediction method that they will provide city-grade coverage to the city of license, allegations of available alternative sites, while not normally considered where an applicant's complies with the Rules, will properly be a subject of inquiry in these proposal proceedings. *See Santa Fe Television, Inc., supra.*

[7] Southwest TV, KOB and KGGM have requested a separate issue under Section 307(b) of the Communications Act of 1934, as amended, with respect to whether SON's or NMM's proposed operation would constitute a fair, efficient and equitable use of their respective frequencies. Such "307(b)" concerns are subsumed within the context of *de facto* reallocation issue. A separate 307(b) issue will not be designated.

the most desirable transmitting site for an Albuquerque UHF station, i.e., Sandia Crest. Absent allegations of unavailability of other suitable sites, and absent any other allegations of specific adverse consequences, KMXN's letter does not warrant designation of a UHF impact issue in relation to either application.[8]

17. In its Petition to Deny NMM's application, KOB asserts that a showing of near-term activation of Channel 14 (Albuquerque) and a showing of financial hardship of Channel 23 (Albuquerque) warrant designation of a UHF impact issue. KGGM, in its Petition to Deny NMM's application, suggests that the same rationale leading to earlier designation of a UHF impact issue in *Santa Fe Television, Inc., supra,* is still applicable: namely, that with three VHF network stations in Albuquerque, any proposal by a Santa Fe applicant to operate an independent station from Sandia Crest would directly compete with necessarily independent UHF stations in Albuquerque for non-network sources of programming and revenues. Southwest TV urges designation of a UHF impact issue against NMM on the basis of Commission precedent regarding the interrelationship of Santa Fe and Albuquerque allocations.

18. Beginning from about 1969 to 1972 and thereafter, we have consistently moved away from completely protecting UHF stations and allocations. Our change in policy was based on the rationale that "the time has . . . passed" when it was appropriate to "insulate every UHF station or potential station from any possible small wind of VHF impact . . . ." *Television Table of Assignments: Mt. Vernon, Illinois,* 17 RR 2d 1620, 1630 (1969), *affirmed sub nom. Plains Television Corp.* v. *FCC,* 440 F. 2d 276 (D.C. Cir. 1971). In *WFMY Television Corp.,* 59 FCC 2d 1010 (1976), we stated: "to require a designation of an application for hearing, a petition must demonstrate some nexus between the fact of extended VHF service and claimed specific adverse consequences to the public interest." This standard set forth in *WFMY* for designation of a UHF impact issue was later characterized in *Central Alabama Broadcasters, Inc.,* 68 FCC 2d 1339 (1978), as a burden upon the petitioner requesting such an issue "to make a *prima facie* case that grant of the application would be inconsistent with the public interest."

19. Neither KOAT nor Southwest TV claims any *specific* adverse consequences to the public interest, other than the conclusory allegations advanced in their respective pleadings. Their pleadings are not sufficient to warrant designation of a UHF impact issue in relation to SON's application.

Notwithstanding our 1969 designation of a UHF impact issue for a previous Santa Fe VHF applicant seeking to place a transmitter on Sandia Crest, a UHF impact issue will not be designated for SON's application.

20. Petitioners' and Objectors' claim of possible competition for the same non-network sources of programing and revenues in Albuquerque, coupled with mere showing of near-term activation or present hardship of a UHF station, is not sufficient for designation of a UHF impact issue against NMM, unless some nexus between substantial prospective harm to the UHF stations and the NMM application is shown. No such harm, and no such nexus, have been established. Thus, prior Commission designation of a UHF impact issue in similar circumstances notwithstanding, present standards for designation of a UHF impact issue do not admit for one against NMM.

One-to-a-Market Rule

21. Belarmino R. Gonzales is president, one of seven directors, and one of three full-time administrators of SON. He is also president, a director of, and ninety percent stockholder of Pan-American Broadcasting Company, licensee of AM broadcast Station KDAZ, a 1Kw directional daytime station at Albuquerque, New Mexico. SON's proposed Channel 11 Grade A contour will encompass the entire community of license of KDAZ. Thus, grant of SON's application would violate the "one-to-a-market" rule, Section 73.636(a)(1) of the Rules.

22. SON seeks waiver of the one-to-a-market rule. SON points to the small size of the Santa Fe market, the heavy concentration of cable television in the Santa Fe area, and the lack of a Santa Fe television station, relying primarily upon *Combined Communications Corp.,* 42 FCC 2d 450, 21 P & F Radio Reg. 2d 441, 442 (1971), aff'd *sub nom. KBLU Broadcasting Co.,* 28 P & F Radio Reg. 2d 133 (1973). If the waiver is denied, SON has assured that Mr. Belarmino Gonzales will divest himself of such ownership interest or control of KDAZ as the Commission may order to obtain grant of the SON construction permit.

23. SON alleges no inability to construct and operate a Santa Fe VHF facility without Mr. Gonzales' interest in the Albuquerque aural facility. SON sets forth no reasons which, if true, would be sufficient to justify waiver of out one-to-a-market rule. Thus, SON states no valid basis for a hearing on this issue, and its request for waiver will be denied. *U.S.* v. *Storer Broadcasting Co.,* 351 U.S. 192 (1955). In the event SON's application is granted, it will be granted subject to the condition that, prior to commencement of operation Mr. Gonzales must divest himself of that interest in or connection with Pan-American Broadcasting Company which would otherwise cause him to be in violation of the Commission's Rules.

NMM's Financial Qualifications

24. KGGM contests certain cost estimates of NMM, and proposes its own estimates based upon its own experience with full-time operation in the Albuquerque market. Where, as here, NMM will begin operation at a level of thirty-five hours per week, we are of the view that mere comparison of NMM's projected costs to KGGM's actual costs is insufficient to warrant designation of a financial issue. *Jerry J. Collins,* 50 FCC 2d 715 (1975); *Radio Geneva, Inc.,* 42 FCC 2d 254 (Rev. Bd. 1973).

25. KOB challenged the sufficiency of the Subscription Agreement executed by NMM's stock subscribers on the basis that: (1) no obligation arises until the subscription is called by NMM's Board of Directors, and (2) the capital obligations of NMM's subscribers do not arise until a unanimous vote of NMM's Board of Directors. NMM has amended its application with a resolution of its Board of Directors, dated May 20, 1978, formally calling the stock subscription commitments. NMM has submitted a revised Subscription Agreement dated May 20, 1978, requiring a majority, rather than a unanimous, vote of its Board of Directors to give effect to the obligations and commitments assumed thereunder. It appears KOB's challenges to the sufficiency of the Subscription Agreement have been mooted. Questions regarding the sufficiency of the Subscription Agreement do not warrant designation of a financial issue against NMM.

26. Both KOB and KGGM contest the adequacy of the July 29, 1977, letter of commitment from the Bank of Santa Fe. NMM does not rely solely upon this letter. NMM has amended its application to include a letter dated May 8, 1978, from the Executive Vice President of the Bank of Santa Fe, confirming the availability of the funds at issue. NMM's subscribers have jointly and severally agreed to provide an alternate source of funding if we should find the loan unacceptable. Therefore, a financial issue will not be designated against NMM.

[8] Moreover, KMXN applied for and was granted a major modification (BPCT-781220 L.D.) to move its transmitter to Sandia Crest on September 22, 1979.

Oral Argument

27. NMM, KMXN and SON seek oral argument before the Commission on the above-mentioned issues. Our rules do not provide petitioners, informal objectors, or interested parties with any right to oral argument.[9] Where, as here, those requesting the extraordinary step of oral argument have made no showing that the opportunity afforded them through normal application procedures to submit data and statements to the Commission was inadequate, their petitions for oral argument prior to designation for hearing will be denied. *See Chemical Leaman Tank Lines, Inc.* v. *U.S.*, 368 F. Supp. 925 (D. Del. 1973); *Chip Steak Co.* v. *Hardin*, 332 F. Supp. 1084 (N.D. Cal. 1971), *affd.* 467 F.2d 481, *cert. den.*, 411 U.S. 916, 93 S. Ct. 1546, 36 L. Ed. 2d 308.

Petitions to Consolidate

28. KOB, KMXN and KOAT seek consolidation of certain issues relating to the two captioned applications, particularly the issue of *de facto* reallocation. NMM and SON oppose consolidation of these application proceedings for any purpose. Both applicants seek to serve the same city of license and both applicants propose to transmit from the same location. Two common issues will be designated: (1) whether they provide city-grade service to Santa Fe, and (2) whether grant of each application constitutes *de facto* reallocation. These are applications which involve substantially the same issues. Because consolidation of the hearings on these applications will best conduce to the dispatch of business and to the ends of justice, they will, pursuant to Section 1.227(a)(1) of the Commission's Rules, be consolidated for hearing.

Findings

29. Except as indicated by the issues specified below each applicant is qualified to construct and operate as proposed. However, substantial and material questions of fact regarding the issues specified below are present which makes it impossible to conclude, in the absence of a hearing, that grant of either SON's or NMM's application would be in the public interest.

30. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the captioned applications are designated for hearing in a consolidated proceeding, at a time and place and before an Administrative Law Judge to be specified in a subsequent Order, upon the following issues:

To determine:

(a) whether Son Broadcasting, Inc., will encompass Santa Fe, New Mexico, with a city grade contour predicted in accordance with Sections 73.684 and 73.685(a) of the Commission Rules, and, if not, whether circumstances exist which would warrant waiver of these Rules;

(b) whether a grant of Son Broadcasting Inc.'s application would constitute a *de facto* reallocation of Channel 11 from Santa Fe, New Mexico, to Albuquerque, New Mexico;

(c) in light of the evidence adduced pursuant to issues (a) and (b), whether a grant of Son Broadcasting Inc.'s application would serve the public interest, convenience and necessity.

(d) whether New Mexico Media Co. will encompass Santa Fe, New Mexico, with a city grade contour predicted in accordance with Sections 73.684 and 73.685(a) of the Commission's Rules, and, if not, whether circumstances exist which would warrant waiver of these Rules;

(e) Whether a grant of New Mexico Media Co.'s application would constitute a *de facto* reallocation of Channel 2 from Santa Fe, New Mexico, to Albuquerque, New Mexico;

(f) in light of the evidence adduced pursuant to issues (d) and (e), whether a grant of New Mexico Media Co.'s application would serve the public interest, convenience and necessity.

31. It is further ordered, that, to the extent indicated above, the Petitions to Deny, informal objections and other motions relating to the above-captioned applications are granted, and in all other respects are denied.[10]

32. It is further ordered that Galaxy-Southwest Television, New Mexico Broadcasting, Inc., Hubbard Broadcasting, Inc., and KOAT Television, Inc., are made parties respondent to these proceedings.

33. It is further ordered, That, in the event of a grant of the application of Son Broadcasting, Inc., the construction permit shall contain a condition that program tests will not be authorized until the permittee has shown that Belarmino R. Gonzales has divested himself of all interest in, and severed all connections with, station KDAZ, Albuquerque, New Mexico.

34. It is further ordered that to avail themselves of the opportunity to be heard, the parties herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

35. It is further ordered that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Additional pleadings in relation to File No. BPCT-5053 considered in this Order are:

1. A Petition for Extension of Time filed by SON on September 19, 1977—Granted.
2. An Opposition to Petition to Deny filed by SON on October 18, 1977.
3. An affidavit filed by SON on October 21, 1977, related to SON's previous October 18, 1977, pleading.
4. A Limited Dismissal of Petition to Deny filed by KOAT on November 21, 1977.
5. A Request for Expedited Consideration filed by KOAT on January 17, 1978—Moot.
6. A Statement in Support of KOAT's Request for Expedited Consideration filed by SON on January 30, 1978.
7. The Reply of SON Broadcasting Inc., to the Objection of Adelstein & Berger, filed by SON on March 17, 1978.
8. The Response of Adelstein and Berger filed March 27, 1978.
9. A motion to strike filed by Adelstein and Berger on June 5, 1978—Denied.
10. A statement filed by KOB on June 8, 1978.
11. A statement filed by SON on June 12, 1978, responding to KOB's June 8, 1978, statement.
12. A statement filed by KOB on June 20, 1978, replying to SON's statement of June 12, 1978.
13. A statement in Support of Report for Oral Argument filed by New Mexico Media Co. (NMM), applicant for authority to construct a new television broadcast station on Channel 2, Santa Fe, New Mexico, on December 8, 1978—Stricken for want of standing to file pleading.

[9] *See* 47 C.F.R. §§ 73.3561 et seq. and 47 C.F.R. §§ 73.3591 et seq. Such rules relating to processing of and action upon applications, particularly where oral advocacy is available in a later stage of the applications process (after designation for hearing), are consistent with 47 U.S.C. § 4(j), which states in pertinent part: "The Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice."

[10] Certain pleadings considered in this Memorandum Opinion and Order were not timely filed. Because such pleadings contained issues raised in timely filed pleadings or because those pleadings not timely filed raised issues of public concern, we have not rejected any untimely pleadings in these proceedings out of hand.

14. A motion to strike and opposition to SON's extraordinary request for oral argument filed by Southwest TV on December 8, 1978—Motion to strike is denied.

15. An Opposition to Request for Oral Argument filed by KOB on December 11, 1978.

16. An Opposition to Extraordinary Request for Oral argument filed by KOAT on December 13, 1978.

17. An Opposition to Statement in Support of Extraordinary Request for Oral Argument filed by Southwest TV on December 14, 1978.

18. A Supplement to Petition to Deny filed by KOB on January 16, 1979.

19. A Statement in Support of Petition for Consolidated Hearing filed by KOB on February 27, 1979.

20. An Opposition to Petition for Consolidated Hearing filed by SON on February 28, 1979.

21. A Reply to Oppositions to Petitions for Consolidated Hearing filed by KOAT on March 13, 1979.

Appendix B

Additional pleadings in relation to File No. BPCT-5124 considered in this Order are:

1. An editorial correction to the April 17, 1978, Petition to Deny filed by KOB on April 20, 1978.

2. An Opposition to Petitions to Deny filed by NMM on June 21, 1978.

3. A revision to its Opposition to Petitions to Deny filed by NMM on June 28, 1978.

4. A Reply to Opposition to Petitions to Deny filed by KOB on July 10, 1978.

5. A statement filed by NMM on August 7, 1978.

6. An Opposition to Request for Oral Argument filed by KOB on December 11, 1978.

7. An Opposition to Statement in Support of Extraordinary Request for Oral Argument filed by Southwest TV on December 14, 1978.

8. A Supplement to Petition to Deny filed by KOB on January 15, 1979.

9. A request for extension of time in which to file an Opposition to Supplement to Petition to Deny, filed by NMM on January 23, 1979—Granted.

10. An Opposition to Supplement to Petition to Deny filed by NMM on February 12, 1979.

11. A Reply to Opposition to Supplement to Petition to Deny filed by KOB on February 23, 1979.

12. An Opposition to Petition for Consolidated Hearings filed by NMM on February 26, 1979.

13. A Statement in Support of Petition for Consolidated Hearing filed by KOB on February 27, 1979.

14. An Opposition to Petition for Consolidated Hearing filed by SON on February 28, 1979.

15. A Reply to Oppositions to Petitions for Consolidated Hearing filed by KOAT on March 13, 1979.

[FR Doc. 80-26951 Filed 9-3-80; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

State Workshop for Review of Proposed "Final Issue of Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants" (NUREG-0654/FEMA-REP-1)

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Announcement.

FEA is cooperating with the Nuclear Regulatory Commission in development of final criteria to be used in the preparation and evaluation of radiological emergency response plans and preparedness in support of nuclear power plants (NUREG-0654/FEMA-REP-1 issued for interim use and comment in January 1980). In conjunction with this, FEMA also has proposed on June 24, 1980, a rule, 44 CFR Part 350 (45 FR 42341) which will govern the FEMA approval of State and local radiological emergency plans and preparedness. These and other actions will provide guidance to govern the acceptability of planning and preparedness around commercial nuclear facilities.

Since being published for comment, the joint FEMA/NRC criteria has been commented upon by States, local governments, and the public. In response to these comments, and to information gained during the interim use period of the criteria, a number of modificiations to the criteria are proposed.

FEMA, in cooperation with NRC, will hold a State workshop to discuss the criteria, after which it will be issued in final form. This workshop is being held to obtain the views of, and provide the opportunity for discussion among State officials; however, all sessions will be open to public attendance and observation on a space available basis. Information will also be provided about FEMA rulemaking.

The meeting will be held at the Sheraton Airport Hotel, Atlanta, Georgia, September 24, 25, and 26, commencing at 1:00 pm September 24, 1980.

Persons who wish further information about this workshop or who wish to observe should write Ms. Karol Bothamley, Southern States Energy Board, One Exchange Place, 2300 Peachford Road, Suite 1230, Atlanta, Georgia 30338, telephone (404) 455-8841.

Dated at Washington, D.C. this twenty-eight day of August, 1980.

For the Federal Emergency Management Agency.

Robert T. Jaske,

Acting Director, Radiological Emergency Preparedness Division.

[FR Doc. 80-26958 Filed 9-3-80; 8:45 am]
BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

[Agreement No. T-3915]

Availability of Finding of No Significant Impact; Junta and Carol

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Environmental Analysis (OEA) has determined that the environmental issues relative to the referenced agreement do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.* and that preparation of an environmental impact statement is not required under section 4332(2)(c) of NEPA.

Agreement No. T-3915, between Junta Administrativa de los Muelles Municipales de Ponce (Junta) and Carol Lines (Carol), provides for Carol's lease of facilities and preferential building privileges at Pier 6, Municipal Piers of Ponce, and adjacent container parking areas. Carol shall have a 36-hour preferential use of Pier 6 on the days indicated on their vessel ETA schedules and Junta will provide one shoreside crane (4)LT). The agreement shall run for 3 years with options for additional 3-year periods. The Office of Environmental Analysis' (OEA) major environmental concern is whether the agreement will significantly affect energy usage and/or the quality of the air, water, noise, and biological environment in the area affected.

The OEA has determined that the Commission's final resolution of Agreement No. T-3915 will cause no significant adverse environmental effects in excess of those created by existing uses.

The environmental assessment is available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725. Interested parties may comment on the environmental assessment within 20 days following publication of this Notice in the Federal Register. Such comments are to be filed with the Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573. If a party fails to comment within this period, it will be

presumed that the party has no comment to make.

Francis C. Hurney,

Secretary.

[FR Doc. 80-27021 Filed 9-3-80; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 722; Docket No. 80-57]

Cosmos Shipping Co., Inc.; Order of Investigation and Hearing

Cosmos Shipping Co., Inc. (Cosmos), is an independent ocean freight forwarder operating pursuant to FMC License No. 722, issued on August 5, 1963. Information has been developed by the Commission's staff which indicates that Cosmos may have violated sections 15 and 16, Initial Paragraph, Shipping Act, 1916 [46 U.S.C. 814, 815]. Cosmos' actions may have rendered it unfit to carry on the business of forwarding pursuant to section 44(b) of the Shipping Act, 1916 [46 U.S.C. 841(b)].

The information indicates Cosmos and/or its officers received sums of money from ocean carriers in excess of the ocean freight forwarder compensation specified in the ocean carrier's tariffs. These payments from one carrier to the president of Cosmos apparently totaled approximately $17,030 for the period from August 27, 1975 through November 5, 1976, for shipments covered by 134 bills of lading whereon Cosmos acted as the ocean freight forwarder. The payments were all in excess of the ocean freight forwarder compensation specified in the carrier's respective tariff.

The receipt of payments from ocean carriers in excess of the ocean freight forwarder compensation by Cosmos and/or its officers raises the possibility that Cosmos vilolated section 15 and section 16, Initial Paragraph, Shipping Act, 1916. Section 15 may have been violated if the payments were made pursuant to an unfiled agreement between Cosmos and the respective carriers. It is likewise believed that Cosmos may have violated section 16, Initial Paragraph, by directly or indirectly passing any part of these payments through to its shipper principals and thereby permitting its principals to obtain ocean transportation at less than the applicable rates or charges. Moreover, even if Cosmos did not pass any or all of the payments on to its shipper clients, if the payments represent a portion of the carrier's ocean freight revenues for Cosmos' shipments, the excess payments may result in such shipments moving at less than the applicable rates and charges.

Now, Therefore, It Is Ordered, That pursuant to sections 15, 16, 22, 32 and 44 [46 U.S.C. 814, 815, 821, 831 and 841(b)] of the Shipping Act, 1916, and section 510.9 of General Order 4 [46 CFR 510.9], a proceeding is hereby instituted to determine:

1. Whether Cosmos violated section 15, Shipping Act, 1916, by entering into and carrying out without Commission approval any agreement subject to the terms of section 15 providing for the receipt of payments from ocean carriers in excess of the amount of ocean freight forwarder compensation specified in the ocean carrier's applicable tariffs;

2. Whether Cosmos violated section 16, Initial Paragraph, by directly or indirectly passing on any portion of monies received by it or its officers from ocean carriers in excess of authorized ocean freight forwarder compensation to its shipper principals thus obtaining ocean transportation—on behalf of its principals—at less than the applicable rates or charges;

3. Whether Cosmos violated section 16, Initial Paragraph—even if it did not pass any or all of monies received by it or its officers from ocean carriers in excess of authorized ocean freight forwarder compensation to its shipper principals—by obtaining transportation by water at less than the applicable rates and charges;

4. Whether civil penalties should be assessed against Cosmos pursuant to section 32(e), Shipping Act, 1916, for violations of the Shipping Act, 1916, and/or the Commission's Rules and Regulations, and, if so, the amount of any such penalty which should be imposed taking into consideration factors in possible mitigation of such a penalty;

5. Whether Cosmos' independent ocean freight forwarder license should be suspended or revoked pursuant to section 44(d) of the Shipping Act, 1916 for:

a. willful violations of the Shipping Act, 1916,

b. such conduct as the Commission finds renders Cosmos unfit to carry on the business of forwarding in accordance with section 510.9(e) of General Order 4.

It Is Further Ordered, That Cosmos Shipping Co., Inc. be named Respondent in this proceeding.

It Is Further Ordered, That this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the Presiding Administrative Law Judge, but in any event, shall commence within the time limit specified in Rule 61 [46 CFR 502.61] of the Commission's Rules of Practice and Procedure. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents, or that the nature of the matters in issue are such that an oral hearing and cross-examination are necessary for the development of an adequate record.

It Is Further Ordered, That notice of this Order be published in the Federal Register and a copy thereof and notice of hearing be served upon Respondent, Cosmos Shipping Co., Inc. and the Commission's Bureau of Hearing Counsel.

It Is Further Ordered, That any person other than Respondent and Hearing Counsel having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 [46 CFR 502.72] of the Commission's Rules of Practice and Procedure.

It Is Further Ordered, That all future notices issued by or on behalf of the Commission, including notice of time and place of hearing, or prehearing conference, shall be mailed directly to all parties of record.

By the Commission

Francis C. Hurney,

Secretary.

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FEDERAL RESERVE SYSTEM

[Docket No. R-0324]

Federal Reserve Bank Services; Proposed Fee Schedules and Pricing Principles

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed fee schedules and pricing principles.

SUMMARY: The Monetary Control Act of 1980 (Title I of Pub. L. 96-221) requires the Board to publish for comment a set of pricing principles and a proposed schedule of fees for Federal Reserve Bank services. Accordingly, the Board seeks comment on its proposed pricing principles, the methods employed for determining service fees, and the fee schedules.

DATE: Interested parties are invited to submit relevant data, views and other

comments. Comments must be received by October 31, 1980.

ADDRESS: Comments, which should refer to Docket No. R-0324, should be addressed to Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, D.C. 20551, or delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6.(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

FOR FURTHER INFORMATION CONTACT: Lorin S. Meeder, Assistant Director for Federal Reserve Bank Operations (202/452-2738); Earl G. Hamilton, Senior Operations Analyst (202/452-3878); Benjamin Wolkowitz, Section Chief (202/452-2686); David B. Humphrey, Economist (202/452-2556); Myron L. Kwast, Economist (202/452-2686); Gilbert T. Schwartz, Assistant General Counsel (202/452-3625); Lee S. Adams, Senior Attorney (202/452-3623); Paul S. Pilecki, Attorney (202/452-3281).

SUPPLEMENTARY INFORMATION:

I. Introduction

The purpose of this announcement is to invite public comment on a proposed schedule of fees for Federal Reserve Bank services and the principles that underlie them. The Monetary Control Act of 1980 requires the Board of Governors of the Federal Reserve System to begin putting into effect a schedule of fees for services no later than September 1, 1981 and to make such services covered by the fee schedule available to all depository institutions. Accordingly, the Board seeks comment on its proposed pricing principles, the methods employed for determining service fees, and the proposed fee schedules. In preparing the pricing principles and fee schedules the Board has taken into account the objectives of fostering competition, improving the efficiency of the payments mechanism, and lowering costs of these services to society at large. At the same time, the Board is cognizant of, and concerned with, the continuing Federal Reserve responsibility and necessity for maintaining the integrity and reliability of the payments mechanism.

II. Background

The Monetary Control Act (Title I of Pub. L. 96-221) requires the Board of Governors of the Federal Reserve System to publish for comment a set of pricing principles and a proposed schedule of fees for Federal Reserve Bank services not later than September 1, 1980. Federal Reserve Bank services to be priced are:

(1) Currency and coin transportation and coin wrapping;
(2) Check clearing and collection;
(3) Wire transfer of funds;
(4) Automated clearing house (ACH);
(5) Net settlement;
(6) Securities services;
(7) Noncash collection;
(8) Federal Reserve float; and
(9) Any new services the Federal Reserve System offers.

The legislative history of the Act indicates that Congress had two objectives in establishing a requirement that the Federal Reserve price the services it provides. First, Congress was concerned with the amount of revenue lost to the Treasury as a result of the reduction in the level of aggregate required reserves resulting from the implementation of the reserve requirement provisions of the Act. Pricing for Federal Reserve Bank services will generate revenue that will partially offset the revenue loss associated with reduced required reserves. Second, Congress believed pricing for Federal Reserve Bank services to be a means of encouraging competition in the provision of these services in order to assure that they are provided at the lowest aggregate cost to society as a whole. While intending to stimulate the efficiency of the payments system, Congress did not wish to precipitate the reemergence of undersirable banking practices such as non-par checking or circuitous routing of checks which the Federal Reserve System was designated to eliminate. Therefore, it required the Board to ensure an adequate level of services nationwide. Consequently, Congress charged the Board with adopting pricing principles that "give due regard to competitive factors and the provision of an adequate level of such services nationwide". This objective is clearly established in the pricing principles established by the Act.

III. Pricing Principles

The Monetary Control Act sets forth the following principles upon which it requires the schedule of fees for services to be based:

1. All Federal Reserve Bank services covered by the fee schedule shall be priced explicitly.

2. All Federal Reserve Bank services coverd by the fee schedule shall be available to nonmember depository institutions and such services shall be priced at the same fee schedule applicable to member banks, except that nonmembers shall be subject to any other terms, including a requirement of balances sufficient for clearing purposes, that the Board may determine are applicable to member banks.

3. Over the long run, fees shall be established on the basis of all direct and indirect costs actually incurred in providing the Federal Reserve services priced, including interest on items credited prior to actual collection, overhead, and an allocation of imputed costs which takes into account the taxes that would have been paid and the return on capital that would have been provided had the services been furnished by a private business firm, except that the pricing principles shall give due regard to competitive factors and the provision of an adequate level of such services nationwide.

4. Interest on items credited prior to collection shall be charged at the current rate applicable in the market for Federal funds.

The Board believes that the Monetary Control Act and its legislative history recognize the importance of the Federal Reserve maintaining an operational presence in the nation's payments mechanism, providing an adequate level of service nationwide and encouraging competition. In the light of these considerations, the Federal Reserve has developed additional pricing principles that build on those of the Act and provide further guidance as to the pricing policies and strategies the System proposes to follow.

5. The fee schedule shall, over the long run, be set to recover total costs for all priced services.

6. Fees shall be structured so as to avoid undesirable disruptions in service and to facilitate an orderly transition to a pricing environment.

7. The fee schedule, as well as service levels, shall be administered flexibly in response to changing market conditions and user demands.

8. Fee and service level incentives may be established to improve the efficiency and capacity of the present payments system and to induce desirable longer run changes in the payments mechanism.

The Federal Reserve believes that pricing and expanded access will have an impact on the types and the volumes of Federal Reserve Bank services provided. The System recognizes that its proposed fees may bring about a decrease in the volume of certain System services. Furthermore, the System may consider eliminating some services if it is determined that a continued Federal Reserve presence in providing these services is no longer cost effective or otherwise warranted. In determining the type and level of service to be added or discontinued, the Federal

Reserve will be cognizant of its legislative responsibility for insuring that the nation maintains an efficient, sound, and competitive payments mechanism.

IV. Price Determination

The Monetary Control Act of 1980 requires that "over the long run fees shall be established on the basis of all direct and indirect costs actually incurred in providing Federal Reserve services priced". The proposed pricing structure is based on the Federal Reserve's cost accounting system which provides the basis for calculating the total cost of major services (e.g., checks, wire transfer). Reserve Banks have provided the necessary allocations of these total costs to the detailed service categories for services to be priced at the District or office levels.

A. *Private Sector Adjustment.* The Act also requires that a private sector adjustment be added to Federal Reserve cost to account for "taxes that would have been paid and the return on capital that would have been provided had the services been furnished by a private business firm". A markup of 12 percent has been adopted and incorporated into the fee schedules presented later in this notice. This markup is discussed in further detail in Appendix I. The private sector adjustment factor will be reviewed annually.

B. *Long run Versus Short run Costs.* The Act provides for the establishment of fees based upon long run costs. If, after the introduction of the schedules of fees there are no substantial changes in the volume of services provided, current costs would approximate long run costs. However, should the volumes of priced services change substantially after the implementation of pricing, current costs would no longer represent long run costs, since Reserve Banks will require time to adjust their direct and overhead costs to the new volume levels. Consequently, until Reserve Banks have had time to adjust their overhead costs, initial prices will not be modified to reflect fully the changes in unit costs associated with large volume changes. This approach minimizes disruptive fluctuations in clearing patterns and is compatible with the requirement that prices be based on long run costs.

C. *National, District, or Office Pricing.* National fees are proposed for services which are uniform across the Federal Reserve System. These services are generally capital intensive services having very similar costs across Federal Reserve Districts. National fees are proposed for wire transfer, ACH, net settlement, and on-line securities transfer services. Separate fees for Federal Reserve Districts or offices are proposed for services where there are significant cost differences across Districts (or across separate offices within the District) and/or where the market for that service is local in scope. District or office pricing for these services should encourage competition and promote efficiency. District fees are proposed for coin wrapping, securities and noncash collection services while office fees are proposed for currency and coin shipping services. The Board proposes that Reserve Banks be given the option to set fees for check services on either a District or office basis.

D. *Federal Reserve Float.* Under the Monetary Control Act, the Federal Reserve is required to charge for any float remaining after the Federal Reserve has implemented actions to reduce the size of float. The Federal Reserve plans to implement the phased approach towards reducing and charging for float described below.

Phase I: Operational Improvements. Federal Reserve float will be reduced through operational improvements where such reduction can be cost justified, particularly in those instances when substantial float reductions can be achieved at moderate costs. The System has targeted a reduction in float on the order of 50% below current levels, and expects the costs for such improvements to increase the unit prices for checks that are shown in this announcement by approximately 10% or less. Improvements in the Interdistrict Transportation System are already under way and further improvements are scheduled. Opportunities to use the Federal Reserve communications system or its automated clearing facilities to speed up the collection of large dollar items will be pursued as part of this effort. Implementation of other float reduction techniques in the Federal Reserve is under way and should continue throughout 1981.

Phase II: Changes in Availability Schedules. In September 1981, the System will implement changes in its availability schedule to achieve further reductions in Federal Reserve float. Fractional availability will be used to vary the availability schedule to reflect more accurately actual collection experience. For example, if experience indicates that 97% of check clearings between two Reserve offices occurs in one day, and 3% in two days, 97% of the funds will be passed on to the depositor on day one and 3% on day two. This method is similar to that used by correspondent commercial banks. On average, fractional availability is expected to result in not more than a 2%–4% change in current availability schedules for local items and 6%–10% for out-of-district items. Obviously the impact on any specific financial institution will depend on the nature of its cash letter deposit.

Phase III: Explicit Pricing. Subsequent to implementation of operational improvements and modifications to availability schedules, there may be a small amount of Federal Reserve float still remaining. Beginning by mid-1982, an explicit charge for this remaining float will be made at the Federal funds rate and incorporated into the price of the function creating the float. Specific details concerning the charging procedure will be announced prior to that date. Because residual float will be small, the impact on prices will also be small.

V. Incentive Pricing

The Federal Reserve plans to use fee inventives to improve the efficiency and capacity of the payments system. To encourage the development of electronic funds transfer, the fee schedule proposed for ACH services reflects System costs in a mature volume environment. In the future, incentive pricing may be used to encourage smoother deposit flows at Federal Reserve offices and to facilitate more efficient utilization of labor and equipment. For example, to smooth check processing workflows, Reserve Banks might offer a discounted fee on checks deposited several hours before the established cut-off hour.

VI. Implementation of Access and Pricing

The Monetary Control Act requires the Federal Reserve to make Federal Reserve Bank services available to nonmember depository institutions as services are priced. The following schedule has been established for the implementation of pricing and access.

Service and Access and Pricing

Wire Transfer of Funds, January 1981.[1]
Net Settlement, January 1981
Check Clearing and Collections, April 1981
Automated Clearing House, April 1981
Currency and Coin transportation and coin wrapping, July 1981
Securities Services (purchase and sale, safekeeping and transfer), October 1981
Noncash Collection, October 1981
Float, (see preceding discussion)

For all services, the charge will be levied against the party originating a transaction or

[1] In order to allow nonmember depository institutions to adjust their reserve balances, this service will be made available to institutions maintaining required reserve balances at the Federal Reserve on a limited non-priced basis beginning in November 1980.

requesting a specific service. However, depository institutions will be billed through their respective ACH associations for ACH services, unless alternatively, they make arrangements to have such charges assessed directly.

VII. Description of Services

A. *Check Clearing and Collection Services (all checks except U.S. Treasury Checks and Postal Money Orders).* In the proposed schedule (see Table 1 of Appendix II) there is a single fee for receiving, sorting, reconciling and delivery. These fees do not include charges for special intraoffice deposit arrangements that individual Reserve Banks may establish.

The proposed per item fees include the costs associated with returns and adjustments. However, consideration is being given to the establishment of separate prices for return items. No charges will be made for postal money orders or U.S. Treasury checks deposited separately because such processing is conducted by the Federal Reserve as part of its fiscal agency responsibilities. When such items are not deposited separately they will be assessed the same fee as commercial checks deposited in mixed cash letters.

The following check services are available:

1. *Cash letters [2] deposited directly at the processing Federal Reserve Office.*

a. *City.* City checks are drawn on depository institutions located in the same city as the processing Federal Reserve office. City check services are available at 43 Federal Reserve offices. When deposited at the collecting Federal Reserve offices credit for city checks is immediate (i.e., funds are available on the same day if the checks are received prior to the established cut-off hour).

b. *Regional Check Processing Center (RCPC).* RCPC checks are drawn on depository institutions located in areas designated as RCPC zones.[3] RCPC checks drawn on depository institutions in RCPC zones are usually transported by courier from the collecting Federal Reserve offices for presentment. There are 44 Federal Reserve offices which offer RCPC check services. When deposited at the collecting Federal Reserve office, credit for RCPC checks is immediate (i.e., same business day) if the items are deposited by 12:01 a.m.

c. *Country.* Country checks are drawn on depository institutions located outside a city in which a Federal Reserve office is located and outside an RCPC zone. Country check services are available at 12 Federal Reserve offices. Credit for country checks is available one day after timely deposit at the processing Federal Reserve office.

d. *Mixed.* Mixed cash letters contain unsorted city, country and RCPC checks. These cash letters may also contain checks drawn on depository institutions in other Federal Reserve territories. Only depository institutions with less than 5,000 items to be collected each day are eligible to deposit mixed cash letters at their local Federal Reserve office. These services are available at 27 Federal Reserve offices. Credit for checks in mixed cash letters is normally available the day after deposit if the deposit is made before the city cut-off hour of the processing Federal Reserve office.

e. *Other Fed.* Other Fed cash letters contain checks drawn on depository institutions located in Federal Reserve territories other than the processing Federal Reserve territory. Prices for collecting these checks reflect the resources required to sort the checks at two Federal Reserve offices and to transport the items between these offices.

f. *Non-Machineable.* Non-machineable cash letters contain checks which were rejected from the reader-sorter equipment of a depositing financial institution, and those checks that are mutilated and cannot be computer processed. Fees for non-machineable checks reflect the additional manual handling required to process these exception items. Credit for non-machineable checks is generally deferred one day beyond normal availability for the same type check (e.g., credit for a city non-machineable check would be available the day after timely deposit at the processing Federal Reserve office).

g. *Package Sort.* Each package sort cash letter contains checks drawn on only one depository institution and is packaged for delivery to that institution. Reflecting the pre-sorting work done by depositing institutions Federal Reserve involvement is limited to presentment, settlement, adjustment and return. As a result, the proposed fee is lower than the fees for other categories of cash letters and later cut-off hours are applicable to package sort cash letters. Credit is passed according to the same availability schedule as for city, country, and RCPC items.

h. *Group Sort.* Each group sort cash letter contains checks of a specific type (city, RCPC or country) drawn on two or more depository institutions. Because the depositing institution has already done some sorting this Federal Reserve service requires less handling than a regular deposit. Therefore, the proposed fee is lower. Later cut-off hours are applicable to group sort cash letters and credit is passed to depositing institutions on the same schedule as for city, RCPC, and country items.

2. *Cash letters sent to other Federal Reserve offices.* a. *Consolidated Shipments.* Consolidated shipment cash letters consist of checks of a particular type (city, RCPC or country) drawn on depository institutions located in another Federal Reserve territory. Since the items are not processed by the local Federal Reserve office of first deposit, the proposed fee for these items reflects only the cost of transporting these checks between Federal Reserve offices and processing them at the collecting Federal Reserve office.

b. *Direct Shipments.* Direct shipment ("direct sends") cash letters are those for which transportation to the processing Federal Reserve office is arranged by the depositing institution. Proposed direct shipment fees are the same as local prices for the respective class of items (city, RCPC, and country) at the processing Federal Reserve office.

B. *Automated Clearing House Services.* ACH services are offered in all Federal Reserve Districts. Proposed fees for automated clearing house (ACH) service (see Table 2, Appendix II) reflect costs based on an expected mature volume and are applicable at all Federal Reserve operated clearing and settlement facilities. These proposed fees include receiving, sorting, reconciling, settling and delivery of both debit and credit ACH transactions. The proposed fee for the Federal Reserve Bank of New York reflects the provision of local ACH processing by the private sector with only settlement and transportation provided by the Federal Reserve.

1. *Intra-ACH transactions.* Intra-ACH transactions are payments received from local originating depositing institutions for delivery to depository institutions located in the same ACH service area.

2. *Inter-ACH transactions.* Inter-ACH transactions are payments received from a private sector ACH facility or from originating depository institutions in one ACH area for delivery to depository institutions in other ACH service areas.

C. *Wire Transfer of Reserve Account Balances Service.* Wire transfer services provide for the immediate movement of funds between any two depository institutions which maintain accounts

[2] A cash letter contains a listing of individual checks and the packaged checks.

[3] RCPC zones are designated areas within the territories of Federal Reserve offices, but outside Federal Reserve cities. In these zones the Federal Reserve is able to present checks for payment and collection on the same day.

with the Federal Reserve (see Table 3 in Appendix II for proposed fees).

Five levels of services are available: (1) On-line origination of a transfer without telephone advice (notification) to the receiver, (2) on-line origination of a transfer with telephone advice to the receiver, (3) off-line origination without telephone advice to the receiver, (4) off-line origination with telephone advice to the receiver and (5) off-line receiver requiring telephone advice of credit where none has been requested by the originator (see Table 3 of Appendix 11 for the proposed fees).

The most common wire transfer transaction is originated from an on-line terminal at a depository institution and processed through the Federal Reserve's automated communication facilities with immediate settlement and transmission of an advice to the receiving depository institution's on-line terminal facilities. Off-line origination of a transfer allows depository institutions without on-line facilities to initiate wire transfer by telephone request to a Federal Reserve office. Except for initiation by telephone, off-line wire transfers are processed in the same manner as on-line transactions. Telephone notification to an off-line receiver provides information concerning funds credited to their accounts earlier than would otherwise occur.

The originator will be charged for the wire transfer services including a fee for telephone advice to an off-line receiver if requested by the originator. If the receiver has instructed the Reserve Bank office to provide telephone advice when none has been requested by the originator, the off-line receiver will be charged for the telephone advice (see Table 3 of Appendix II for proposed fees).

D. *Net Settlement Service.* The net settlement service is the posting of debit and credit advices generated by a third party to accounts held on the books of the Federal Reserve.[4] The third party is typically a provider of financial services to depository institutions (e.g., a private sector check clearing house, automated clearing house association, funds transfer system, etc.) who normally processes a large number of transactions among its member institutions. In addition to sorting, delivering or communicating data, the third-party maintains records of these transactions. At the end of a business day, the third party sums all transactions for each institution and delivers or transmits to the Federal Reserve the entries to effect settlement among the participating institutions. Charges for the net settlement service will be calculated based on the number of entries in each settlement and will be levied against the third party ordering the settlement rather than against each institution participating in the settlement (see Table 4 of Appendix II for proposed fees).

E. *Currency and Coin Transportation and Coin Wrapping Services.* Transportation services for currency and coin are fully priced (see Table 5 and 6 in Appendix II for proposed fees). However, no private sector adjustment has been added since the cost of imputed capital and taxes is already included in the price the System pays private couriers to provide this service. Proposed fees reflect both a volume charge (per bundle of currency and/or bag of coin shipped) and a cost per stop.

Proposed transportation fees for currency and coin are based on existing armored carrier contracts and established usage patterns. The Reserve Banks may impose reasonable limitations on frequency of service, number of offices served and size of orders/deposits. To assure that the public serviced by institutions in more remote locations receive an adequate level of service, the proposed prices for transportation to depository institutions located in more remote areas (over-the-road endpoints) have a ceiling imposed for the per stop portion of the cash transportation charge. The proposed price to mail endpoints has the same ceiling. In the proposed pricing structure, the ceiling is set at $32.

Depository institutions may pick up or deliver currency and coin free of charge at Reserve Bank docks, since the provision of coin and currency itself is a government service. However, Reserve Banks may impose reasonable restrictions on scheduling of pickups and deliveries when depository institutions arrange their own transportation.

Currency and coin processing (paying, receiving and verifying both coin and currency, and issuing, processing, canceling and destroying currency) are governmental functions and are not priced.

1. *Currency and coin shipping service.* The shipping service comprises mail shipments and armored carrier deliveries to and from endpoints within a Federal Reserve city, within suburban areas of the Reserve city, and beyond those areas to locations in more remote areas, referred to as "over-the-road" endpoints.

a. *Mail shipment.* Mail shipment service involves travel to and from the Post Office to pick up and deliver currency and coin. Actual postage, registered mail fees and insurance costs will be added to the proposed Reserve Bank fee for this service.

b. *City endpoint.* City endpoint transportation includes the shipment of currency and coin by armored carrier to and from depository institutions located within the same city as a Federal Reserve office.

c. *Suburban endpoint.* This service is similar to the city endpoint service except that it is available only to depository institutions located close to a Federal Reserve city (i.e., within a geographic area defined by a Federal Reserve office as suburban).

d. *Over-the-road endpoint.* This service is similar to city and suburban endpoint services but is available to depository institutions located beyond suburban endpoints. Over-the-road service areas are subdivided into zones based upon distance from a Federal Reserve office.

2. *Coin Wrapping.* Wrapping involves the packaging of coin into rolls, and boxing of rolls for shipment. Coin wrapping is available in four Reserve Bank Districts (see Table 7 in Appendix II for proposed fee for this service).

F. *Securities Services.* 1. *Safekeeping and securities transfer.* Proposed prices for this service include charges for the establishment, maintenance, and servicing of both definitive and book-entry safekeeping accounts (see Table 8 of Appendix II for proposed prices). Also included are charges to cover deposits, withdrawals, electronic transfers of book-entry securities, and charges to cover account maintenance.[5] The proposed account maintenance fee reflects the costs associated with storing securities, maintaining account instructions, reconciling accounts, notifying the depository of maturing securities, and providing periodic account statements.

a. *Book-entry securities.* This service includes the transfer of book-entry securities and the maintenance of a customer's account. A Federal Reserve office will electronically transfer book-entry securities from the custody

[4] Gross settlement, that is, the posting of debits and credits associated with the direct use of other Federal Reserve services, is not charged for separately since its cost is of necessity included in the fee for each service.

[5] No fees will be imposed for: (1) Holding, transferring or switching definitive or book-entry securities as collateral for Treasury tax and loan, other Treasury deposits, or borrowings from the Federal Reserve; (2) deposits of book-entry securities on original issues; and (3) payment of principal and interest on Government securities, including the withdrawal of matured book-entry securities. These services are provided by the Federal Reserve in its capacity as fiscal agent for the U.S. Treasury Department and compensation for such services is provided by the Treasury.

account of one depository institution to the custody account of another depository institution located within the same or another Federal Reserve District. Additionally, a Federal Reserve office will electronically transfer book-entry securities between custody accounts of the same depository institution (account switch). All book-entry transfers may be performed on-line or off-line. This service also includes account maintenance (e.g., the maintenance of records reflecting book-entry holdings, account instructions, and periodic statements).

b. *Definitive securities.* This service includes the receipt or delivery of definitive securities by a Federal Reserve office at the direction of a depository institution and the processing of related payments. Also included are: (1) The transfer of securities between custody accounts at a Federal Reserve office; (2) the withdrawal of maturing securities from safekeeping and collateral accounts and the collection and crediting of principal on such securities; (3) detaching maturing coupons from definitive securities held at a Federal Reserve office and preparing them for delivery to the owner or to the appropriate paying agent; and (4) account maintenance, including storage of securities, maintenance of account instructions, account reconcilement, and periodic statements.

2. *Purchase and sale of government securities.* This service involves the execution of purchase and sale transactions of Treasury and U.S. Government agency securities at the request of a depository institution. It is proposed that fees will be charged for each transaction handled.

G. *Noncash Collection Services.* Noncash collection includes the receipt, collection, and crediting of accounts of depository institutions for deposits of matured municipal and corporate coupons, and called or matured municipal and corporate obligations. (See Table 8 of Appendix II for proposed prices.) The collection of and crediting for maturing coupons detached from definitive securities held in safekeeping on collateral accounts at a Federal Reserve office are also included in this service.

VIII. Clearing Balances

The Monetary Control Act imposes Federal reserve requirements on all depository institutions with transaction accounts or non-personal time deposits. Nevertheless, a number of member and non-member depository institutions will maintain zero or negligible required reserve balances with the Federal Reserve because of the phase in provisions or because of the lower reserve ratios established by the Act. Such institutions will either have low required reserves and/or will be able to satisfy their reserve requirement either in large part or entirely with vault cash. These institutions may want direct access to some or all Federal Reserve services. However, their reserve balances held at Federal Reserve Banks may be considered inadequate for clearing purposes because they could generate an excessive incidence of daylight, and possible overnight, overdrafts. Consequently, the Board will provide two alternative methods whereby depository institutions maintaining zero or negligible required reserve balances with Federal Reserve Banks will still be able to receive Federal Reserve Bank services directly, in accordance with the access provisions of the Act.

The first method is for a depository institution with zero or low reserve balances to arrange with a correspondent institution or with its reserve pass-through correspondent to post all of its Federal Reserve credits and charges arising from its use of System services to the correspondent institution's or pass-through correspondent's Federal Reserve account. Such arrangements must comply with the requirements of the Federal Reserve Bank involved. The second method is for the depository institution with zero or low reserve balances, regardless of whether or not its reserves are held through a pass-through correspondent, to establish a clearing balance with its Reserve Bank to which Federal Reserve credits and charges may be posted. If the depository institution chooses the clearing balance method, it is proposed that the following procedures apply:

A. *Clearing Balance Procedure.* 1. The need for and size of a clearing balance will be set by each Reserve Bank on a case-by-case basis. The size of the clearing balance will be set so as to minimize the expected incidence of daylight and possible overnight overdrafts.

2. In order to ensure that clearing balances do not interfere with the conduct of monetary policy, the size of the required clearing balance will be fixed in advance of the period during which that balance must be maintained. Required clearing balances may be adjusted on the first Thursday of each month to reflect changes in the level of transactions. Notice of such adjustments will be made two weeks prior to the change.

3. In order to minimize the potentially disruptive effects clearing balance requirements could have upon the conduct of monetary policy, the maintenance period for required clearing balances will correspond to the maintenance period for required reserve balances. Each depository institution will have to maintain a required weekly average total balance—required clearing balances plus, if applicable, required reserve balances. At the end of each maintenance period any balances held with the System will first be allocated to the clearing balance requirement and the remainder will apply to the required reserve balance. Thus, if a depository institution holds an average total balance with the System during the maintenance period that is less than the required balance—required clearing balances plus required reserve balances—the depository institution will be considered to be deficient in reserves. If the deficiency in average total balances is greater than the required services, the remaining shortfall will be considered deficient clearing balances. If the maintained total balance exceeds the required balance, the institution will be considered to be holding excess reserves. However, in the case where a depository institution elects to pass-through its required reserves and in addition maintains a required clearing balance directly with the Federal Reserve, the required clearing balance will be administered separately from the required reserve balance.

4. If a depository institution is deficient in required reserves it will be subject to a penalty (12 CFR 204.7). The same penalty will apply to a deficiency in required clearing balances, whether or not that institution must maintain any required reserve balances with the Federal Reserve. However, while reserve carryover provisions will apply to required reserve balances, they will not apply to required clearing balances. In addition, Federal Reserve Banks will meet with depository institutions that demonstrate an inability to maintain required balances or that incur repeated penalties to discuss how to better manage required total balances.

B. *Earnings Credits on Clearing Balances.* 1. The Monetary Control Act provides that Federal Reserve services should be provided on a competitive basis. Since fees for competitive services offered by commercial banks are often in the form of balances maintained by the users of the services the Board believes that, in order to fulfill the objective of providing services on a competitive basis, it is appropriate to permit fees for services to be offset by an earnings credit on required clearing

balances just as is the practice of the private sector. Thus; Federal Reserve Banks will provide earnings on the lesser of required clearing balances or the actual clearing balances maintained. These credits can *only* be used to offset charges a depository institution incurs in its use of System services. Explicit interest will *not* be paid to depository institutions maintaining required clearing balances.

2. The earnings credit rate to be used by Reserve Banks is a weekly average of the 91-day Treasury Bill rate. This average will be computed based on U.S. Treasury auction averages and daily closing bid prices.

3. If during a given billing period the earnings credits granted a depository institution exceed the charges it incurs for the use of System services, the depository institution may carryover the excess credits and apply them to its use of System services in subsequent months. A particular billing period's carryover may be maintained for up to 12 months. At the end of 12 months such credits expire. For example, excess credits earned in January that are unused during the following 12 months would expire the next January 31, while excess credits earned in February that are unused during the following 12 months would expire on the last day of the next February.

C. *Implementation Dates for Clearing Balances.* 1. Federal Reserve Banks will implement clearing balances by Janaury 1, 1981 or as soon thereafter as possible.

2. In those Districts in which Reserve Banks are unable to implement clearing balances by January 1, 1981, a depository institution with zero or low required reserve balances that wishes to receive System services directly will be limited to the first method previously discussed. Thus, affected depository institutions will need to arrange with a correspondent institution or other reserve pass-through correspondent to have all its Federal Reserve credits and charges posted to the correspondent institution's or pass-through correspondent's Federal Reserve Bank account. Once clearing balances become available, depository institutions may switch to the clearing balance procedure.

By order of the Board of Governors of the Federal Reserve System, August 28, 1980.

Theodore E. Allison,

Secretary of the Board.

Appendix I—The Private Sector Adjustment Factor

In accordance with the Monetary Control Act of 1980 the Federal Reserve is required to price its services to reflect its actual costs plus the financing and tax costs that a private sector supplier would incur. Since the System's cost accounting information does not include these private sector costs, it is necessary to derive an adjustment factor or markup to apply to the System's cost accounting data.

The first step in deriving the private sector adjustment requires a determination of the value (at historical cost) of the System's assets employed in the production of priced services. The value of assets used by the System to execute its central bank functions, supervisory and regulatory responsibilities, and duties as the Treasury's fiscal agent have been excluded. The asset base for priced services is shown in Table 1 and totals $284.9 million.

The capital structure was assumed to approximate that of a private business firm solely providing payments function services: 53% debt (32% short-term, 21% long-term) and 47% equity. When the average debt, equity, and tax costs of a selected sample of large banks are applied to this capital structure, an average cost of capital of 13.1% is derived. This cost of capital was used to determine the 12% private sector adjustment factor, described in detail in Table 2.

Table 1.—*Assets Employed in the Production of Priced Services*

[In millions of 1979 dollars]

Items	Amount
Bank premises, net	$409.3
Difference and suspense account, net	134.3
Furniture and equipment, net	85.1
Other real estate	27.4
Deferred charges	3.4
Total assets	659.5

Assets of priced services: $659.5 (.432)[1]=$284.9.

[1] Those assets which could be explicitly identified as supporting a nonpriced service are not included in Table 1. Other assets which supported both priced and nonpriced services required different treatment. The cost of priced services (less shipping expenses) represented 43.2% of total System costs (less note issue and shipping expenses). This ratio is applied to the total asset base of $659.5 million (which supports both priced and nonpriced services) to determine the value of assets allocable to the priced services alone. Shipping and note issue expenses represent "passed through" private sector or U.S. Treasury costs and are excluded from the ratio since little or no Federal Reserve assets are involved in their production.

Table 2.—*The Calculation of the Private Sector Adjustment Factor*[1]

[In millions of 1979 dollars; Factor annual data]

Items	Amount
Asset base	284.9
Capital structure:	
Short-term debt (32%)	91.7
Long-term debt (21%)	58.0
Equity (47%)	135.2
Financing cost:	
Short-term debt (@ 6.91%)	6.3
Long-term debt (@ 7.96%)	4.8
Equity (@ 19.5%, before taxes)	26.1
Total assumed financing and tax expenses	37.2
Cost of system services to be marked-up	310.7

Private sector adjustment factor (37.2÷310.7)[2]=12.0%.

[1] The average interest cost of long-term debt at 12 large banks was 7.96% in 1979 while the average interest cost of short-term debt was 6.91%. The average after tax return on equity was 14.4% and, with an effective tax rate of 26%, yields a before tax equity return of 19.5%.

[2] The average cost of capital (before taxes) is 13.1%.

Appendix II—Proposed Fees

The following tables contain the proposed fees for Federal Reserve services.

Table 1.—*Proposed Fee Schedule; Commercial Check Services*

[In cents per item]

Federal Reserve office	Cash letters deposited directly at processing Federal Register office						Cash letter consolidated with shipments sent from other Federal Register offices to processing Federal Register office	
	City	Country RCPC and mixed	Other Fed	Nonmachineable	Package sort	Group sort	City	Country and RCPC
Boston, Lewiston, Windsor Locks	1.4	1.7	3.8	4.2	.5	1.6	1.8	2.1
New York	2.5	2.9	5.1	7.0	.2	———	3.0	3.4
Buffalo	1.5	1.7	3.9	3.9	.6	———	1.9	2.1
Jericho	———	2.0	———	4.8	.6	———	———	2.5
Cranford	———	2.2	———	4.5	.6	———	———	2.7
Utica	———	2.0	———	4.6	.6	1.7	———	2.4
Philadelphia	1.9	2.2	4.6	4.8	.6	1.8	2.3	2.7
Cleveland, Cincinnati, Pittsburgh, Columbus	.9	1.9	3.4	3.7	.5	———	1.3	2.3

Table 1.—*Proposed Fee Schedule; Commercial Check Services*—Continued

[In cents per item]

Federal Reserve office	Cash letters deposited directly at processing Federal Register office						Cash letter consolidated with shipments sent from other Federal Register offices to processing Federal Register office	
	City	Country RCPC and mixed	Other Fed	Nonmachineable	Package sort	Group sort	City	Country and RCPC
Richmond	1.6	1.9	4.0	4.1	.6		2.0	2.4
Baltimore	1.6	1.8	4.1	3.8	.6		2.0	2.2
Charlotte	1.1	1.3	3.4	3.2	.5		1.5	1.7
Columbia	1.4	1.6	3.9	3.6	.6		1.8	2.0
Charleston		1.8	3.8	3.7	.6			2.2
Atlanta, Birmingham, Jacksonville, Nashville, New Orleans, Miami	1.2	1.5	3.3	3.8	.4		1.6	1.9
Chicago	1.9	2.5	4.3	4.1	.5		2.4	2.9
Detroit	1.2	1.8	4.5	5.5	.4		1.6	2.3
Des Moines	1.3	1.7	3.4	4.3	.4		1.7	2.1
Indianapolis	1.2	1.2	3.5	3.4	.4		1.6	1.6
Milwaukee	1.5	1.3	3.8	5.1	.3		1.9	1.7
St. Louis, Little Rock, Louisville, Memphis	1.7	2.1	3.8	4.0	.3		2.1	2.6
Minneapolis, Helena	1.4	1.9	4.4	4.8	.5	1.4	1.9	2.4
Kansas City	1.7	2.4	3.9	4.0	.5	1.0	2.1	2.8
Denver	1.0	1.3	3.3	3.8	.5		1.4	1.8
Oklahoma City	1.5	1.7	3.8	3.9	.5		1.9	2.1
Omaha	1.3	1.9	3.7	3.6	.5		1.7	2.3
Dallas, Houston, San Antonio, El Paso	1.4	1.9	3.8	4.5	.6	1.5	1.8	2.3
San Francisco, Los Angeles, Portland, Salt Lake City, Seattle	1.5	1.6	3.8	5.9	.2		2.0	2.1

Table 2.—*Proposed Fee Schedule; Automated Clearing House Services*

[In cents per item]

Federal Reserve district	Intra ACH items	Inter ACH items
Boston	1.0	1.5
New York	.3	1.2
Philadelphia	1.0	1.5
Cleveland	1.0	1.5
Richmond	1.0	1.5
Atlanta	1.0	1.5
Chicago	1.0	1.5
St. Louis	1.0	1.5
Minneapolis	1.0	1.5
Kansas City	1.0	1.5
Dallas	1.0	1.5
San Francisco	1.0	1.5

Table 3.—*Proposed Fee Schedule; Wire Transfer of Reserve Account Balances Service*

	Telephone advice to receiver	
	No	Yes
Originator on-line	$0.70	$2.30
Originator off-line	3.15	4.75
Receiver off-line		1.60

Table 4.—*Proposed Fee Schedule Net Settlement Service*

Basic settlement charge per entry	$0.70
Surcharges per entry:	
Settlement originated off-line	2.45
Telephone advice requested	1.60

Table 5.—*Proposed Fee Schedule; Currency and Coin Shipping Service*

Federal Reserve office	Mail shipment [1 2]	City endpoint			Suburban endpoint		
		Volume shipped		Per stop [3]	Volume shipped		Per stop [3]
		Per bundle of currency	Per bag of coin		Per bundle of currency	Per bag of coin	
Boston	$1.82						
New York	1.82						
Buffalo	2.74	$0.20	$0.26	$20.56			
Philadelphia		.10	15	6.39			
Cleveland	1.82				$0.40	$0.39	$11.02
Cincinnati	2.74	.10	.14	4.96	.40	.57	11.96
Pittsburgh	1.82	.10	.14	1.00			
Richmond	2.74	.20	.24	13.56			
Baltimore	1.82				.60	.55	18.00
Charlotte	2.74	.10	.23	6.65			
Atlanta	2.52	.20	.31	7.66			
Birmingham	2.74	.20	.33	8.41			
Jacksonville	2.74	.10	.24	13.23			
Nashville	1.90	.10	.15	1.12	.20	.30	2.86
New Orleans	2.74	.20	.16	6.13	.20	.34	5.32
Miami	1.91	.20	.13	6.45	.60	.70	15.85
Chicago	2.74	.10	.13	9.66	.20	.24	6.34
Detroit	2.74	.40	.62	22.80			
St. Louis	1.82	.10	.14	4.97	.60	.75	11.49
Little Rock	2.38	.10	.12	1.05	.10	.12	2.10
Louisville	1.82	.20	.28	6.42			
Memphis	1.82	.20	.14	2.19			
Minneapolis	1.89	.20	.20	10.35	.40	.76	12.84
Helena	1.82	.20	.23	5.45			
Kansas City	1.82	.10	.14	7.11	.20	.26	2.74
Denver	1.82	.10	.14	3.22	.10	.14	4.01
Oklahoma City	2.06	.10	.16	1.03	.20	.23	2.80
Omaha	2.13	.20	.20	5.67			
Dallas	1.82	.20	.12	1.88	.40	.40	10.57
Houston	1.97	.10	.14	6.17			
San Antonio	2.74	.10	.15	6.83	.10	.15	3.48
El Paso	2.74	.10	.19	5.09			
San Francisco	2.74	.05	.14	13.08	.30	.50	2.67
Los Angeles	2.74	.20	.24	19.43	.30	.74	11.50
Portland	1.82	.10	.16	12.56			
Salt Lake City	2.74	.10	.19	6.50	.60	.76	5.37
Seattle	2.74	.20	.10	13.64	.70	.78	22.00

[1] Cost of one-way trip to or from U.S. Post Office. Actual postage and insurance costs will be added.
[2] Delivery to or from post office.
[3] Pickup and/or delivery.

Table 6.—*Proposed Fee Schedule; Currency and Coin Shipping Service*

Federal Reserve office	Over-the-road endpoints						
	Volume shipped		Per stop (pickup and/or delivery zone)				
	Per bundle of currency	Per bag of coin	1	2	3	4	5
Boston	$0.60	$1.51	$7.05	$15.71	$23.54	$31.38	
New York	.60	1.36	14.14	19.13	24.11	29.09	
Buffalo	.60	.90	12.00	13.39	14.80	16.19	$17.59
Philadelphia	.60	1.55	13.00	15.00	18.50		
Cleveland	.60	.85	12.36	14.06	15.77	17.47	
Cincinnati	.60	.81	13.84	18.78	23.72	28.67	
Pittsburgh	.60	.83	8.86	13.78	18.70	23.62	
Richmond	1.00	1.35	14.70	21.00	25.20		
Baltimore	.60	1.28	25.30	27.50	29.70		
Charlotte	1.10	1.61	22.12	27.07	32.03		
Atlanta	.60	1.15	8.43	13.81	19.11		
Birmingham	.70	1.02	7.40	13.57	19.75		
Jacksonville	.60	.69	9.35	11.81	14.27	16.73	
Nashville	.60	.88	9.24	15.02	20.79		
New Orleans	.60	.73	2.14	4.23	6.41	8.55	
Miami							
Chicago	1.90	1.76	27.04	29.03	32.00		
Detroit	.60	1.58	17.39	22.02	26.66		
St. Louis	1.40	1.93	25.52	31.80	32.00		
Little Rock	2.00	2.27	28.60	31.50	32.00		
Louisville	1.90	2.65	27.50	31.80	32.00		
Memphis	1.20	1.63	25.64	31.80	32.00		
Minneapolis	1.50	1.91	27.53	32.00	32.00		
Helena	2.10	2.29	25.61	27.62	32.00	32.00	32.00
Kansas City	1.30	1.74	21.86	25.53	29.32	32.00	
Denver	.70	1.20	15.89	23.59	25.43	30.43	
Oklahoma City	.70	.94	13.05	17.03			
Omaha	1.20	1.59	9.09	12.53	14.91		
Dallas	1.20	1.58	22.44	23.70	29.04		
Houston	.60	.82	13.57	17.81	22.06	26.30	
San Antonio	1.30	1.77	15.38	17.71	20.04	22.38	24.70

Table 6.—*Proposed Fee Schedule; Currency and Coin Shipping Service*—Continued

Federal Reserve office	Volume shipped		Over-the-road endpoints				
			Per stop (pickup and/or delivery zone)				
	Per bundle of currency	Per bag of coin	1	2	3	4	5
El Paso	1.70	1.95	27.25	31.50	32.00		
San Francisco	.60	1.00	10.84	19.77			
Los Angeles	.70	1.24	10.16	16.48			
Portland	1.00	1.60	11.68				
Salt Lake City	1.30	1.62	11.22				
Seattle	1.30	1.82	19.91				

Table 7.—*Proposed Fee Schedule; Coin Wrapping Service*

Federal Reserve district	Cents per roll
Boston	2.8
Cleveland	2.8
St. Louis	3.5
Kansas City	2.8

Table 8.—*Proposed Fee Schedule Securities Safekeeping and Noncash Collection Services*

Federal Reserve district	Book-entry securities			Definitive securities				Purchase and sale per market transaction	Coupon or bond collection	
	Securities basic price per transfer	Transfer off-line surcharge per trans. [2]	Account maintenance per account [2]	Deposit withdrawal redemption per trans. [1]	Account switch per trans.	Coupon clipping per issue	Account maintenance per million dollars par amount [3]		Per envelope or bond processed [1]	Per $1,000 coupon value shipped
Boston	$1.80	$7.00	$60.00	$38.00	$13.50	$9.50	$67.00	$15.00	$2.20	$1.00
New York	1.80	6.75	60.00	33.50	12.50	9.25	34.00	22.50	1.40	1.00
Philadelphia	1.80	4.50	60.00	29.00	10.00	4.50	34.00	15.50	2.20	1.00
Cleveland	1.80	5.50	60.00	29.00	12.50	4.50	45.00	21.75	2.20	1.00
Richmond	1.80	7.00	60.00	37.00	12.50	7.25	63.00	22.50	2.00	1.00
Atlanta	1.80	5.50	60.00	35.00	11.25	7.25	63.00	18.50	2.00	1.00
Chicago	1.80	4.50	60.00	33.50	12.50	9.25	34.00	12.25	1.40	1.00
St. Louis	1.80	6.75	60.00	19.00	11.25	5.00	45.00		1.60	1.00
Minneapolis	1.80	4.75	60.00	19.00	11.75	5.25	45.00	9.50	1.80	1.00
Kansas City	1.80	4.00	60.00	19.00	10.00	4.25	34.00	16.75	1.80	1.00
Dallas	1.80	5.25	60.00	19.00	10.00	4.50	34.00	16.75	2.00	1.00
San Francisco	1.80	5.25	60.00						1.70	1.00

[1] For bonds, add out-of-pocket shipping expenses, insurance fees and fees assessed by other Federal Reserve Banks if any.

[2] Assessed for off-line origination and off-line receipt.

[3] Per annum assessed on a quarterly basis.

[FR Doc. 80-26929 Filed 9-3-80; 8:45 am]

BILLING CODE 6210-01

FEDERAL TRADE COMMISSION

Flexi-Van Corp.; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Flexi-Van Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of Flexi-Van Truck Rental, a division of Flexi-Van Leasing Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Flexi-Van Corporation. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Naomi Licker, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

By direction of the Commission.

James A. Tobin,

Acting Secretary.

[FR Doc. 80-26920 Filed 9-3-80; 8:45 am]

BILLING CODE 6750-01-M

Municipal Electric Authority of Georgia; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Municipal Electric Authority of Georgia is granted early termination of the waiting period provided by law and the premerger notifiction rules with respect to the proposed acquisition of certain assets of Georgia Power Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Naomi Licker, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before

consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

By direction of the Commission.

James A. Tobin,

Acting Secretary.

[FR Doc. 80-26921 Filed 9-3-80; 8:45 am]

BILLING CODE 6750-01-M

Petro-Lewis Corp.; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Petro-Lewis Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all voting securities of Trans-Delta Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Naomi Licker, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

By direction of the Commission.

James A. Tobin,

Acting Secretary.

[FR Doc. 80-26919 Filed 9-3-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Establishment of National Commission on Alcoholism and Other Alcohol-Related Problems

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse, and Mental Health Administration announces approval and certification by the Secretary of Health and Human Services of the following advisory committee:

Designation: National Commission on Alcoholism and Other Alcohol-Related Problems

Purpose: The Commission is established to conduct a study for the President and the Congress. The study will include: (1) an assessment of unmet treatment and rehabilitation needs of alcoholics and their families; (2) an assessment of personnel needs in the fields of research, treatment, rehabilitation, and prevention; (3) an assessment of the intergration and financing of alcoholism treatment and rehabilitation into health and social health care services within communities; (4) a study of the relationship of alcohol use to aggressive behavior and crime; (5) a study of the relationship of alcohol use to family violence; (6) a study of the relationship of alcoholism to illnesses, particularly those illnesses with a high stress component, among family members of alcoholics; (7) an evaluation of the effectiveness of prevention programs, including the relevance of alcohol control laws and regulations to alcoholism and alcohol-related problems; (8) a survey of the unmet research needs in the area of alcoholism and alcohol-related problems; (9) a survey of the prevalence of occupational alcoholism and alcohol abuse programs offered by Federal contractors; (10) an evaluation of the needs of special and underserved population groups, including American Indians, Alaskan Natives, youth, the elderly, women, and the handicapped, and an assessment of the adequacy of existing services to fulfill such needs.

The Commission shall cease to exist sixty (60) days after the final report is submitted.

Dated: August 26, 1980.

Gerald L. Klerman,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-26927 Filed 9-3-80; 8:45 am]

BILLING CODE 4110-88-M

Prevention, Education, and Information Work Group Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory body scheduled to assemble during the month of September 1980.

Prevention, Education, and Information Work Group of the Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism

September 19; 1:30 p.m.—Open. Conference Room 4033, Ben Franklin Post Office Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C.

Contact: Mr. Edward Sands, Room 14C-24, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-6295.

Purpose: The Prevention, Education, and Information Work Group: (1) reviews all Federal efforts in the areas of alcohol abuse and alcoholism prevention, education, and information, including such issues as advertising and labeling of alcoholic beverages, regulation of alcoholic beverages and social policy issues related to the above areas; (2) provides for the communication and exchange of information necessary to maintain the coordination and effectiveness of such programs and activities; (3) seeks to coordinate and enhance alcohol abuse and alcoholism prevention, education, and information efforts among Federal agencies; and (4) prepares such reports and recommendations to the Interagency Committee as are necessary in order to perform the above functions.

Agenda: The meeting will consist of a discussion of work group activities.

Substantive program information may be obtained from the contact person listed above. The NIAAA Committee Management Office will furnish upon request summaries of the meeting and a roster of Committee members. Contact Ms. Helen Garrett, NIAAA, Room 16C-21, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-2860.

Dated: August 28, 1980.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-26926 Filed 9-3-80; 8:45 am]

BILLING CODE 4110-88-M

Health Care Financing Administration

Medicare Program; Schedule of Limits on Skilled Nursing Facility Inpatient Routine Service Costs

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final notice.

SUMMARY: This notice sets forth a schedule of limits on skilled nursing facility (SNF) inpatient routine service costs that may be reimbursed under

Medicare for cost reporting periods beginning on or after October 1, 1980. This is an annual update of the schedule, and will replace the current schedule published in the Federal Register on August 31, 1979 (44 FR 51542).

EFFECTIVE DATE: October 1, 1980.

FOR FURTHER INFORMATION, CONTACT: Carl Slutter, 301–594–9344.

SUPPLEMENTARY INFORMATION:

Background

Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) authorizes the Secretary to set prospective limits on provider costs reimbursed under Medicare. These limits are based on estimates of the costs necessary in the efficient delivery of needed health services. They may be applied to the direct or indirect overall incurred costs or to the costs incurred for specific items or services furnished by a Medicare provider.

Regulations implementing this authority are set forth at 42 CFR 405.460. Under this authority, we published a final notice of a schedule of limits on SNF inpatient general routine service costs in the Federal Register on August 31, 1979 (44 51542). That schedule, the first applicable to SNF services, went into effect on October 1, 1979 and is still in effect.

On June 18, 1980, we published in the Federal Register (45 FR 41292) a proposed new schedule of limits on SNF routine service costs for cost reporting periods beginning on or after October 1, 1980. In that notice, we explained the methodology used for deriving and applying the limits and we described the scope of the limits as well. We also explained how the methodology used in the June 18 notice differed from the methodology used for the August 31, 1979 schedule. This final notice implements the methodology and limits proposed on June 18 with one change that we discuss below. For the convenience of the reader, the major provisions of the new schedule of limits are also summarized below.

Major Provisions

This new schedule of limits provides for:

1. Limits on adjusted SNF inpatient routine service costs. These limits do not apply to capital-related costs or to the costs of approved medical education programs;

(2) A market basked index, developed from the costs of goods and services purchased by SNFs to account for the impact of changing wage and price levels on SNF costs. This index is used to adjust the SNF cost data, from which the limits are developed, from the cost reporting periods represented in the data collection to the cost reporting period to which the limits apply;

3. A wage index, developed from hospital industry wages, to adjust both the labor-related portion of the SNF costs used to develop the limits and the labor-related portion of each group limit. The adjustment reflects variations in labor costs among the areas in which SNFs are located;

4. A classification system based on whether an SNF is located within a Standard Metropolitan Statistical Area (AMSA) or non-SMSA area, and whether SNF is hospital-based or freestanding. In the New England area, New England County Metropolitan Areas (NECMA) are used to determine urban location;

5. A cost of living adjustment for the nonlabor portion of the limits for Alaska and Hawaii SNFs; and

6. Limits set at 112 percent of the average per diem labor-related and nonlabor costs of each comparison group.

Application of the Limits to State Medicaid Rates

Our regulations at 42 CFR 447.315(c), which govern Medicaid payments for SNF and intermediate care facility (ICF) services, have been amended (45 FR 11806, Feburary 22, 1980) to remove the requirement that those payments by subject to the cost limits published under 42 CFR 405.460. Therefore, these limits will not apply to Medicaid reimbursement, except in those two States (Hawaii and Alaska) using the Medicare reimbursement methodology and in those that provide for the application of the cost limits in their approved State plans. At present, ten States incorporate the cost in their approved State plans.

One commenter asked whether our decision not to apply these limits to State Medicaid rates represented our final decision on the issues. We are still in the process of analyzing the comments we received on the February 22, 1980 amendment. We are also analyzing the Medicaid reimbursement methodologies in the few States where application in the amendment, we will publish in the Federal Register and give the public the opportunity to comment on any revisions to the State reimbursement methodology that may result from our analysis.

Discussion of Major Comments

Comments and suggestions concerning the proposed notice that was published in the Federal Register on June 18, 1980 (45 FR 41292), were received from the American Health Care Association, American Hospital Association of Homes for the Aging and two providers. Our responses to the most significant comments follow.

1. *Use of Separate Limits for Hospital-Based and Freestanding SNF's.*

Comments on this issue were somewhat evenly divided between those favoring and those opposing the continued use of separate limits. Our decision to continue the use of separate limits for another year is based upon two considerations:

(a) As explained in the proposed notice, separate limits for hospital-based SNFs are not intended to jeopardize freestanding SNFs; but rather to assure that the limits will not cause an arbitrary disallowance of costs of existing hospital-based SNFs, solely as a result of a provider's compliance with Medicare rules of cost reporting.

42 CFR 405.453 requires hospital-based SNFs to use a step-down method of cost finding. This methodology results in the allocation of both direct and indirect costs from all general service cost centers of the complex to those revenue-producing cost centers that receive services, including the SNF. Hospital-based SNFs must develop SNF costs in their step-down cost finding procedures and report them as a separate cost center on the hospital/skilled nursing facility cost reporting forms. These accumulated SNF costs, including overhead allocations from the parent institution, become the reimbursable cost of the SNF. As a result, the hospital-based SNF reports a share of the costs from the hospital complex' overhead accounts not directly commensurate with costs incurred by free-standing SNFs. Considering these circumstances, cost limits applied equally to hospital-based and freestanding agencies, because the limits would not recognize the transfer of overhead costs from the complex, would contain an automatic presumption that the hospital-based SNFs are more likely to be inefficient regardless of their performance.

We have done a preliminary analysis of a small sample of cost reports of hospital-based and freestanding SNFs to determine the effect of cost allocation on costs of hospital-based SNFs. From this analysis, we have determined that some of the higher costs of hospital-based SNFs are attributable to the allocation of total hospital complex' overhead costs. This is consistent with the findings of an earlier study of the allocation of overhead costs in hospital-based home health agencies. This study found that 26 percent of the total cost of

hospital-based agencies was allocated to the agency from the parent hospital complex. Although the study does support the fact that the higher costs of hospital-based facilities are due to cost allocation rules, the study was not sufficiently definitive to allow development of a percentage figure as was done for home health agencies.

Therefore, we are expanding the study of the contribution made by the Medicare cost allocation methodology to the higher cost of hospital-based SNFs. To accomplish this, we have developed an expanded central data base using this year's SNF cost data. The data base has been expanded by extracting and automating a significantly greater amount of information from the most currently available cost reports. We will complete a more extensive analysis of these data. If the results of this expanded study allow us to quantify more accurately the amount of the cost differential directly attributable to the cost allocation methodology, we will make appropriate changes in future cost limit methodology.

(b) We have made a preliminary analysis of differences in patient case mix as a cause of the higher cost in the hospital-based SNF and concluded that an adequate analysis of the issue requires a separate data collection effort and more comprehensive study. Therefore, we are developing the necessary study methodology. Until this study is completed, and we have evaluated the results, we believe we should retain the currect distinction between hospital-based and free-standing facilities.

2. *Definition of a hospital-based SNF.*

We received several inquiries requesting that we define a "hospital-based SNF". For purposes of these cost limits, the following definition applies:

An SNF is determined to be hospital-based when it is an integral and subordinate part of a hospital and is operated with other departments of the hospital under common licensure, governance, and professional supervision; all services of both the hospital and the SNF are fully integrated. The following specific conditions must be met:

The SNF and hospital are subject to the bylaws and operating decisions of a common governing board.

The SNF and hospital are financially integrated as evidenced by the cost report which must reflect the certified or noncertified SNF beds of the hospital, the allocation of hospital overhead to the SNF through the required stepdown methodology, and common billing for all services of both facilities.

In making the determination that an SNF is hospital-based, colocation is not an essential factor; however, the distance between the facilities must be reasonable.

The existence of either (1) a transfer agreement between an SNF and a hospital, which is a condition of participation in the Medicare and Medicaid programs (42 CFR 405.1133 and 442.202) or (2) a shared service arrangement (a common arrangement recognized by both Medicare and Medicaid) does not determine an SNF to be hospital-based and is not considered in determining the status of the facility.

This is the same definition that we used for hospital-based home health agencies in the final notice of home health agency cost limits published in the Federal Register on June 5, 1980 (see 45 FR 38014). We welcome any suggestions on how we may further clarify this definition.

We intend to include this definition in instructions to the intermediaries.

3. *Application of the hospital wage index to employee benefits, health service costs, costs of business services, and other miscellaneous expenses.*

Commenters on this issue agreed with the application of the wage index to an expanded category of SNF costs.

The proposed schedule provided for an adjustment that applied to five categories of labor-related costs: wages, employee benefits, health service costs, business service costs, and other miscellaneous costs. The proportion of cost that would be adjusted by the wage index was 80.15.

For purposes of this adjustment, employee benefits include such items as FICA tax, health insurance, life insurance, facility contributions to employee retirement funds, and all other compensation that the SNF records in the "employee health and welfare" cost center on its Medicare cost report. (The Medicare Provider Reimbursement Manual (HIM-15), Chapter 4, and the instructions to the HCFA cost reporting forms describe the types of costs that are to be recorded in that cost center.)

Health service costs are a category used by the National Nursing Home Survey conducted in 1977 by the Office of Health Research, Statistics and Technology, National Center for Health Statistics of the Public Health Service. They include the costs of routine services that are purchased under arrangement from outside sources.

Business services costs include costs of banking, contract laundry, telephone, and other services SNFs purchase at retail from outside suppliers.

Other miscellaneous costs include various types of routine operating costs not allocated to any other category of the market basket.

As discussed in the June 18 notice, a study of the data we used to develop the hospital limits showed a high degree of correlation between variations in routine per diem costs and area variations in prevailing wage levels. We believe this relationship exists because the wage index, which reflects area differences in wage levels that occur for a variety of reasons, acts as a proxy for other variables that we have not been able to identify. Because of the high degree of correlation between area wage levels and overall levels of routine per diem costs in hospitals, and the similarity in the mix of goods and services in the hospital and SNF Market Baskets, we have retained this approach in the final notice. The only change made is a slight adjustment to the percentage of costs to be adjusted, which we have computed to be 80.8 percent. (See discussion in "Use of Revised Inflation Factors" below.)

4. *Accuracy of wage index.*

Several commenters questioned the accuracy of the wage indices for particular areas. We also received comments questioning the overall accuracy of the data we use to compute the wage index.

The data we used to develop the hospital wage index were supplied by the Bureau of Labor Statistics (BLS), and are the most reliable data available. All hospitals are required under State unemployment compensation laws to report these data. If we discover that we, or BLS, have made any errors that result in incorrect wage indices for any of these areas, we will publish corrected wage indices in the Federal Register and will direct the Medicare intermediaries to recalculate the limits for SNFs in these areas. However, the BLS has advised us that they are unable to correct any inaccuracies in the wage index that may result from some hospitals' failure to report the required wage data.

One commenter suggested that we should develop the wage index based on wage data collected by the American Hospital Association (AHA). We have used the BLS data because they encompass a set of occupational categories that closely parallels those found in a hospital. We are studying this situation to determine whether any refinements in our data base would be appropriate. However, we are not basing the index on AHA data because these data are less complete than those supplied by BLS, since they do not include all of the occupational categories comprised by the BLS data base

5. *Set limits at higher percentage of the mean.*

We received several comments suggesting that we set the new limits at a higher percentage of the mean cost of each group. The commenters stated that the proposed 112 percent figure would not accommodate their costs, although no specific supporting rationale was supplied.

In deriving these limits, we have used a wage index adjustment that applies to a number of labor-related expenses rather than to wages and salaries only. We have also adjusted the costs with this wage index prior to computing the limit values. We believe these refinements to the methodology we used for the 1979 schedule significantly improve the accuracy of the new limits. Because we have made these refinements, we believe that a 12 percent allowance above mean cost is adequate to take account of any variations in costs that are consistent with efficiency, but caused by factors not provided for in our current methodology.

Before deciding to propose limits set at 112 percent of the mean, we evaluated other levels for the limits. In doing so, we considered the number and types of SNFs that would be affected and the extent of the adverse effect on these SNFs. In our view, this analysis has resulted in an improved methodology that better accounts for the differences in costs between these SNFs. Although we are aware that alternative cost limits will have differing impacts, there was no explicit consideration given to achieving a particular savings objective.

Our decision to continue to apply the limits at 112 percent of the mean represents our best judgement of the level that will avoid payment for costs due to inefficiency without adversely affecting a disproportionate number of SNFs. This decision to adopt the new limits is based on the same considerations, and on review of the comments we received on the proposed limits.

6. *Increased wage costs due to nursing shortages.*

One commenter stated that SNFs located in areas where nurses are in short supply often must pay unusually high nursing salaries to attract an adequate supply of nurses. This commenter suggested that our methodology for deriving and applying the limits is inadequate because it does not explicitly recognize these higher levels of nursing salary cost.

Nursing salaries are an important component of the overall hospital wages that we use to develop the wage indices. To the extent that nursing salaries in an area are unusually high, this higher level of cost should increase the wage index that we use to adjust the labor-related component of cost for SNFs in the area. Because we believe the wage index adjustment adequately accounts for area differences in nursing salary costs, we did not adopt the suggestion that a specific adjustment be developed for these costs.

7. *Energy costs.*

Some commenters stated that the cost of energy is beyond an SNF's control, and suggested that these costs be excluded from the limits.

Because we establish the SNF cost limits by comparing the costs of similar SNFs, we believe that our methodology adequately recognizes the recent increase in energy prices. Under our methodology, an SNF would be adversely affected by increases in its energy costs only if those costs increased more rapidly than the energy costs of other SNFs. We believe SNFs have a variety of energy conservation techniques available to them, and that including energy costs among the costs subject to limitation will encourage them to adopt these techniques. However, our regulations, at 42 CFR 405.460(f)(2), provide an exception to the limits for cost increases due to extraordinary circumstances beyond the control of the SNF. If an SNF can show that the higher costs resulted from extraordinary increases in its energy costs, for which it was not able to take ameliorative action, it may obtain an exception to the limit.

8. *Limits on Charges to Patients.*

One commenter expressed a concern that these limits fail to control adequately the amount an SNF may charge a patient. The concern was that an inefficiently operated SNF would charge its patients for the difference between the SNF's cost limit and its costs.

Both the law (section 1866(a)(2)(B)(ii)) and the regulations (42 CFR 405.461) deal with this situation and provide safeguards to protect the patient. Although there is a provision under which a provider may obtain approval from HCFA to charge a patient for its excess costs, the regulations require considerable documentation and public notice before an approval will be granted. This regulation has been in effect since 1974. To date, we have received no request from any provider to charge its patients for unreimbursed costs in excess of its limit.

9. *Exemption of Puerto Rico from the limits.*

One commenter asked whether the limits would apply to SNFs in Puerto Rico.

Because BLS does not collect wage data from hospitals in Puerto Rico, we are unable to compute the wage indices used to adjust the limits for SNFs in that area. Therefore, we have decided to exempt these SNFs from the limits.

In addition, since these SNFs are not subject to the limits, we have excluded their costs from the data base used to develop the limits. We did this based on a comment we received which suggested that the cost and service characteristics of these providers could differ significantly from those of their peer group and distort the group mean cost that is the basis of the limit.

Change in Final Schedule of Limits From Proposed Limits

Use of Revised Inflation Factors.

In deriving the June 18 proposed limits we used the most recent Medicare cost report data available as of January 7, 1980. We projected these data from the midpoints of the cost reporting periods used in the data collection through March 31, 1981, which is the midpoint of the first cost reporting period to which the new limits apply. The data were projected by the market basket index, using the most current economic information available at that time.

Since the publication of the proposed notice, we have made two refinements to the market basket that provide a more accurate measure of cost trends during the period to which these limits will apply. First, we have revised the weights used in the market basket to reflect the fact that as of July 1, 1979, the cost of malpractice insurance is not included in routine service costs. (See amended Medicare regulations at 42 CFR 405.452(b)(1)(ii) published June 1, 1979, 44 FR 31642.) These new weights are listed in the third column of Appendix I of this notice.

Second, in response to a comment we received suggesting that the final limits should be based on updated market basket indices, we have revised the market basket factors to incorporate the latest available data and forecasts.

These refinements have resulted in changes to both the limit values (Tables IA and IB) and to the Cost Reporting Year Adjustment Factors (Table IV). The inflation factors used in developing the June 18 schedule and the revised factors we used to develop this final schedule are as follows:

Calendar year	June 18, 1980, factor (percent)	Revised factor (percent)
1977	7.1	7.1
1978	9.0	9.0
1979	9.8	9.7
1980	10.4	10.4
1981	10.5	10.7
1982	10.0	10.2

Methodology for Determining Per Diem Routine Service Cost Limit

Development of Published Limits

1. *Basic Data.* The limits have been developed from actual SNF inpatient routine service cost data, obtained from the latest Medicare cost reports available as of January 7, 1980. The data were then adjusted by excluding capital-related costs.

2. *Adjustment of Data for Economic Trends.* We adjusted the data by means of a market basket index to project reported costs from the midpoints of each cost report period in the data base to the midpoint of the first cost reporting period to which the limits will apply.

This market basket is comprised of most commonly used categories of SNF routine service expenses (see Appendix I). These expenses are weighted according to the estimated proportion of adjusted SNF routine service costs attributable to each category. Historical and projected annual rates of increase in costs for each category are then adjusted by that category's weight. The sum of the weighted rates of increase for each category is the annual rate of increase used for this adjustment.

The percentage increases in the market basket over the previous year used for this projection are:

Calendar year	Percent increase
1977	7.1
1978	9.0
1979	9.7
1980	10.4
1981	10.7
1982	10.2

For future periods, the projected rate of increase in the market basket index will be adjusted to the actual rate of increase if the actual rate is more than three-tenths of 1 percentage point (0.3%) above the estimated rate. Should this occur, the actual rate of increase will be published in the Federal Register and will be used to adjust a SNF's cost limit at the time of final settlement.

3. *Adjustment of Data for Geographic Wage Variations.* After adjustment by the market basket index, we divide each SNF's adjusted per diem routine service costs into labor-related and non-labor portions. We determined the labor-related portion of cost to be 80.8 percent by using the sum of the weights of the five labor-related categories in the market basket. We then divided this portion of per diem cost by the wage index applicable to the SNF's location to arrive at an adjusted labor-related portion of routine cost.

The wage indices are based upon date supplied by the Bureau of Labor Statistics on wages paid in hospitals in 1978. For each SMSA or NECMA, we divided the average hospital wage by the national average wage for all SMSAs and NECMAs. For non-SMSA areas, we developed the indices by computing the national non-SMSA average hospital wage and dividing this average into the average non-SMSA hospital wage for all non-SMSA counties in each State.

This adjustment eliminates any bias in the limit values that might occur due to geographic wage variations.

4. *Group Means.* We calculated separate means of adjusted routine service labor-related and nonlabor costs for each SNF group established in accordance with the SNF's location and type (hospital-based/freestanding). The development of separate means is necessary since the wage index adjustment discussed above changes the ratio of labor-related to nonlabor costs.

5. *Components of Limit.* For each group we established the limits at 112% of the mean labor-related and mean nonlabor costs (see Tables IA and IB). The addition of a 12% margin factor to each group's average cost accommodates those cost variables not accounted for by the limit methodology.

Adjustment of Published Limits

1. *Adjustment of Labor-Related Component by Wage Index.* To arrive at a labor-adjusted limit for each SNF, the labor-related limit component for the SNF's group is multiplied by the appropriate wage index (see Tables II and III). These indices are developed from the wage levels for hospital workers in the area in which the SNF is located. The adjusted limit that will apply to an SNF is the sum of the nonlabor component, plus the adjusted labor-related component, unless the SNF qualifies for the cost reporting year revision in step 2 below.

Example—Calculation of Adjusted Limit for a Freestanding SNF Located in Miami, Florida.

Nonlabor Component—$10.54 (published in Table IB).

Labor-Related Component—$40.38 (published in Table IB).

SMSA Wage Index—1.1264 (published in Table II).

Computation of Adjusted Limit

Labor-Related Component ($40.38	
Wage Index (× 1.1264	
Adjusted Labor Component ($45.48	
Non-Labor Component ($ + 10.54	
Adjusted Limit ($56.02	

The wage indices for each SMSA/NECMA and for the non-SMSA areas of each State are published in Tables II and III.

2. *Revision for Cost Reporting Year.* If an SNF has a cost reporting period beginning on or after November 1, 1980, the adjusted limit will be revised upward by the factor from Table IV that corresponds to the month and year in which the cost reporting period begins. We derived those factors by allowing an additional one/twelfth (1/12) of the appropriate projected rate of annual increase in costs of the goods and services in the market basket for each month between October, 1980 and the month and year in which the SNF's cost reporting year starts.

Example—SNF A's cost reporting period begins January 1, 1981.

The otherwise applicable limit for the SNF is $56.02.

Computation of Revised SNF Limit

Individual SNF Adjusted Limit	$56.02
Adjustment Factor from Table IV	× 1.02675
Revised Limit	57.52

If an SNF uses a cost reporting period that is not 12 months in duration, we calculate a special adjustment factor. This is because the adjustment factors in Table IV are based on an assumed 12-month reporting period. For cost reporting periods of other than 12 months, the calculation must be done specifically for the midpoint of the cost reporting period. The SNF's intermediary will obtain this adjustment factor from HCFA.

Schedule of Limits

Under the authority of section 1861(v) of the Social Security Act, the following group per diem limits will apply to the adjusted SNF inpatient routine service cost (including the inpatient routine nursing salary differential) for cost reporting periods beginning on or after October 1, 1980. Fiscal intermediaries will compute the adjusted limits (using the wage indices found in Tables II and III), and notify each SNF of its applicable limit.

There is good cause to make this notice effective October 1, 1980 since early implementation will be in the public interest because the limits are based upon more recent and accurate estimates of economic trends in SNF costs. In addition, improvements in the methodology used in developing the limits will result in limits that are more accurate and equitable.

Because of these considerations, HCFA has determined that good cause exists to waive the customary 30-day publication of new limits and their effective date, and to apply the new limits to SNFs with cost reporting periods beginning on or after October 1, 1980.

Location	Labor-related component	Nonlabor [1] component
Table Ia.—Group Limits for Hospital-based SNF's		
SMSA	$71.94	$18.86
Non-SMSA	58.88	13.97
Table Ib.—Group Limits for Freestanding SNF's		
SMSA	$40.38	$10.54
Non-SMSA	38.06	8.91

[1] The non-labor portion of the limits for SNF's located in States of Alaska and Hawaii will be inceased by the following cost-of-living adjustments:

	Factor
Alaska	1.25
Hawaii (Island):	
Oahu	1.125
Kauai	1.15
Molokai	1.15
Maui and Lanai	1.10
Hawaii	1.10

Table II.—*Wage Index for Urban Areas*

SMSA area	Wage index
Abilene, TX	.8471
Akron, OH	1.0308
Albany, GA	.7833
Albany-Schenectady-Troy, NY	1.0322
Albuquerque, NM	1.1007
Alexandria, LA	1.0357
Allentown-Bethlehem-Easton, PA-NJ	1.0490
Altoona, PA	1.0878
Amarillo, TX	.9891
Anaheim-Santa Ana-Garden Grove, CA	1.1626
Anchorage, AK	1.5136
Anderson, IN	.9269
Ann Arbor, MI	1.2489
Anniston, AL	.7986
Appleton-Oshkosh, WI	.9052
Asheville, NC	1.1118
Atlanta, GA	.9272
Atlantic City, NJ	1.0018
Augusta, GA-SC	1.0750
Austin, TX	.9079
Bakerfield, CA	1.0743
Baltimore, MD	1.1333
Baton Rouge, LA	.9242
Battle Creek, MI	1.2267
Bay City, MI	1.0438
Beaumont-Port Arthur-Orange, TX	.8613
Billings, MT	.8945
Biloxi-Gulfport, MS	1.0576
Binghamton, NY-PA	.9246
Birmingham, AL	.9969
Bismarck, ND	.9134
Bloomington, IN	.9585
Bloomington-Normal, IL	.8289
Boise City, ID	1.0836
Boston-Lowell-Brockton-Lawrence-Haverhill, MA-NH	1.1337
Bradenton, FL	.8438
Bridgeport-Stamford-Norwalk-Danbury, CT	1.1186
Brownsville-Harlingen-San Benito, TX	.9056
Bryan-College Station, TX	.7822
Buffalo, NY	.9060
Burlington, NC	.8610
Canton, OH	.9141
Cedar Rapids, IA	.8929
Champign-Rubana-Rantoul, IL	1.0856
Charleston-North Charleston, SC	1.0173
Charleston, WV	1.0328
Charlotte-Gastonia, NC	.9259
Chattanooga, TN-GA	.9887
Chicago, IL	1.2146
Cincinnati, OH-KY-IN	1.0896
Clarksville-Hopkinsville, TN-KY	.8262
Cleveland, OH	1.1701
Colorado Springs, CO	.9149
Columbia, MO	1.2097
Columbia, SC	.9927
Columbus, GA-AL	.8531
Columbus, OH	1.0253
Corpus Christi, TX	.9106
Dallas-Fort Worth, TX	.9434
Davenpot-Rock Island-Moline, IA-IL	.9172
Dayton, OH	1.1514
Daytona Beach, FL	.9461
Decatur, IL	.9357
Denver-Boulder, CO	1.1140
Des Moines, IA	1.0621
Detroit, MI	1.1769
Dubuque, IA	.9002
Duluth-Superior, MN-WI	.8073
Eau Claire, WI	.8419
El Paso, TX	.9345
Elkhart, IN	.7965
Elmira, NY	.8010
Enid, OK	.8312
Erie, PA	.9700
Eugene-Springfield, OR	.9591
Evansville, IN-KY	1.0204
Fargo-Moorhead, ND-MN	1.0048
Fayetteville, NC	1.1267
Fayetteville-Springdale, AR	.8734
Flint, MI	1.1314
Florence, AL	.7955
Fort Collins, CO	.8229
Fort Lauderdale-Hollywood, FL	1.1327
Fort Myers, FL	.9611
Fort Smith, AR-OK	.8401
Fort Wayne, IN	.9028
Fresno, CA	1.1454
Gadsden, AL	.8987
Gainesville, FL	1.1171
Galveston-Texas City, TX	.9935
Gary-Hammond-East Chicago, IN	1.1579
Grand Forks, ND-MN	.8739
Grand Rapids, MI	.9088
Great Falls, MT	.8888
Greeley, CO	.8215
Green Bay, WI	.9398
Greensboro-Winston-Salem-High Point, NC	.8974
Greenville-Spartanburg, SC	.8864
Hamilton-Middleton, OH	1.0850
Harrisburg, PA	1.0520
Hartford-New Britain-Bristol, CT	1.0720
Honolulu, HI	1.1668
Houston, TX	1.0308
Huntington-Ashland, WV-KY-OH	.9505
Huntsville, AL	.8280
Indianapolis, IN	1.0486
Iowa City, IA	1.3012
Jackson, MI	.9828
Jackson, MS	.8981
Jacksonville, FL	.9324
Janesville-Beloit, WI	.8371
Jersey City, NJ	1.0712
Johnson City-Kingsport-Bristol, TN-VA	.9512
Johnstown, PA	.9977
Kalamazoo-Portage, MI	1.1351
Kankakee, IL	.9591
Kansas City, MO-KS	.9882
Kenosha, WI	1.0441
Killeen-Temple, TX	1.0588
Knoxville, TN	.8505
Kokomo, IN	.9330
La Crosse, WI	.8532
Lafayette, LA	.8521
Lafayette-West Lafayette, IN	.8907
Lake Charles, LA	.8520
Lakeland-Winter Haven, FL	.8470
Lancaster, PA	1.0410
Lansing-East Lansing, MI	1.0488
Laredo, TX	.8372
Las Cruces, NM	.7866
Las Vegas, NV	1.1837
Lawrence, KS	.8378
Lawton, OK	.8740
Lewiston-Auburn, ME	.8724
Lexington-Fayette, KY	1.0310
Lima, OH	.9421
Lincoln, NE	1.0107
Little Rock-North Little Rock, AR	1.1015
Long Branch-Asbury Park, NJ	1.0585
Longview, TX	.7922
Lorain-Elyria, OH	.9870
Los Angeles-Long Beach, CA	1.2005
Louisville, KY-IN	1.0112
Lubbock, TX	.8434
Lynchburg, VA	.8611
Macon, GA	.9170
Madison, WI	1.0238
Manchester-Nashua, NH	.8699
Mansfield, OH	.8706
McAllen-Pharr-Edinburg, TX	.7825
Melbourne-Titusville-Cocoa, FL	.9051
Memphis, TN-AR-MS	1.0612
Miami, FL	1.1264
Midland, TX	.8818
Milwaukee, WI	1.0154
Minneapolis-St. Paul, MN-WI	.9923
Mobile, AL	.8911
Modesto, CA	.9527
Monroe, LA	.9022
Montgomery, AL	.9923
Muncie, IN	.9149
Muskegon-Norton Shores-Muskegon Heights, MI	.9837
Nashville-Davidson, TN	1.0555
Nassau-Suffolk, NY	1.3079
New Bedford-Fall River, MA	.9665
New Brunswick-Perth Amboy-Sayreville, NJ	1.0678
New Haven-Waterbury-Meriden, CT	1.1519
New London-Norwich, CT	1.0957
New Orleans, LA	.9929
New York, NY-NJ	1.4451
Newark, NJ	1.2785
Newport News-Hampton, VA	1.0425
Norfork-Virginia Beach-Portsmouth, VA-NC	.9660
Northeast Pennsylvania	1.1027
Odessa, TX	.8788
Oklahoma City, OK	.9308
Omaha, NE-IA	.9549
Orlando, FL	.9108
Owensboro, KY	.7235
Oxnard-Simi Valley-Ventura, CA	1.4074
Panama City, FL	.8592
Parkersburg-Marietta, WV-OH	.9577
Pascagoula-Moss Point, MS	1.1379
Paterson-Clifton-Passaic, NJ	1.0851
Pensacola, FL	.9132
Peoria, IL	1.0520
Petersburg-Colonial Heights-Hopewell, VA	.8909
Philidelphia, PA-NJ	1.1610
Phoenix, AZ	1.0808
Pine Bluff, AR	.7245
Pittsburgh, PA	1.1255
Pittsfield, MA	1.0213
Portland, ME	.9540
Portland, OR-WA	1.1194
Poughkeepsie, NY	1.2004
Providence-Warwick-Pawtucket, RI	1.0334
Provo-Orem, UT	.8969
Pueblo, CO	.8612
Racine, WI	.8248
Raleigh-Durham, NC	1.0578
Rapid City, SD	1.1297
Reading, PA	.9918
Reno, NV	1.2465
Richland-Kennewick, WA	.9853
Richmond, VA	.9838
Riverside-San Bernardino-Ontario, CA	1.1690
Roanoke, VA	1.1003
Rochester, MN	.9782
Rochester, NY	1.0818
Rockford, IL	1.0742
Sacramento, CA	1.2012
Saginaw, MI	1.1458
St. Cloud, MN	1.1067
St. Joseph, MO	.9095
St. Louis, MO-IL	.9764

Table II.—*Wage Index for Urban Areas*—Continued

SMSA area	Wage index
Salem, OR	1.0709
Salinas-Seaside-Monterey, CA	1.2103
Salt Lake City-Ogden, UT	.8515
San Angelo, TX	.8074
San Antonio, TX	1.0283
San Diego, CA	1.1255
San Francisco-Oakland, CA	1.3805
San Jose, CA	1.3758
Santa Barbara-Santa Maria-Lompoc, CA	1.0276
Santa Cruz, CA	1.0595
Santa Rosa, CA	1.3212
Sarasota, FL	.8909
Savannah, GA	.9041
Seattle-Everett, WA	1.0056
Sherman-Denison, TX	.7773
Shreveport, LA	1.0296
Sioux City, IA-NE	.9221
Sioux Falls, SD	8497
South Bend, IN	.8811
Spokane, WA	1.0577
Springfield, IL	1.0559
Springfield, MO	.9462
Springfield, OH	.9646
Springfield-Chicopee-Holyoke, MA	1.0342
Steubenville-Weirton, OH-WV	.9822
Stockton, CA	1.2994
Syracuse, NY	1.2607
Tacoma, WA	1.0337
Tallahassee, FL	.8494
Tampa-St. Petersburg, FL	1.0374
Terre Haute, IN	.8609
Texarkana, TX-Texarkana, AR	1.0364
Toledo, OH-MI	1.0955
Topeka, KS	1.1339
Trenton, NJ	1.1293
Tucson, AZ	1.0725
Tulsa, OK	.9224
Tuscaloosa, AL	1.0304
Tyler, TX	.9142
Utica-Rome, NY	.8669
Vallejo-Fairfield-Napa, CA	1.5362
Vineland-Millville-Bridgeton, NJ	.9370
Waco, TX	1.1763
Washington, DC-MD-VA	1.2749
Waterloo-Cedar Falls, IA	.8478
West Palm Beach-Boca Raton, FL	.9374
Wheeling, WV-OH	.9001
Wichita, KS	1.0373
Wichita Falls, TX	.8064
Williamsport, PA	.9170
Wilmington, DE-NJ-MD	1.1964
Wilmington, NC	.8770
Worcester-Fitchburg-Leominster, MA	.9514
Yakima, WA	.8946
York, PA	.9573
Youngstown-Warren, OH	1.0681

Table III.—*Wage Index for Rural Areas*

Non-SMSA area	Wage index
Alabama	.9246
Alaska	1.5107
Arizona	1.0963
Arkansas	.8294
California	1.2158
Colorado	1.0599
Connecticut	1.1225
Delaware	1.0306
Florida	.9907
Georgia	.9382
Hawaii	1.3946
Idaho	.9142

Table III.—*Wage Index for Rural Areas*—Continued

Non-SMSA area	Wage index
Illinois	.9852
Indiana	1.0121
Iowa	.9095
Kansas	.9044
Kentucky	.9844
Louisiana	.8683
Maine	1.0354
Maryland	1.0525
Massachusetts	1.1692
Michigan	1.0996
Minnesota	.8895
Mississippi	.8356
Missouri	.9685
Montana	.9934
Nebraska	.8075
Nevada	1.0487
New Hampshire	1.0673
New Jersey	1.0895
New Mexico	1.0268
New York	.9386
North Carolina	.9635
North Dakota	.8921
Ohio	1.0218
Oklahoma	.9264
Oregon	1.0769
Pennsylvania	1.1394
South Carolina	.8946
South Dakota	.7753
Tennessee	.8387
Texas	.9005

Table III.—*Wage Index for Rural Areas*—Continued

Non-SMSA area	Wage index
Utah	.8058
Vermont	1.0319
Virginia	.9318
Washington	1.0242
West Virginia	1.1401
Wisconsin	.9048
Wyoming	1.0947

Table IV.—*Cost Reporting Year Adjustment Factors*

If the SNF cost report period begins	The adjustment factor is
November 1980	1.00892
December 1980	1.01783
January 1981	1.02675
February 1981	1.03525
March 1981	1.04375
April 1981	1.05225
May 1981	1.06075
June 1981	1.06925
July 1981	1.07775
August 1981	1.08625
September 1981	1.09475

Appendix I.—*Derivation of "Market Basket" Index for SNF Routine Service Costs*

Cost category	Routine [1] weight 1979	Forecaster 1980-81	"Price" variable used
Payroll Expenses (Wages and Salaries).	62.36	DRI-CFS [2]	Percentage changes in average hourly earnings of employees in nursing and personal care facilities. (SIC 805.) Source: U.S. Department of Labor, Bureau of Labor Statistics, "Employment and Earnings," (monthly) Table C-2.
Employee Benefits	7.81	DRI-MM [3]	Supplements to wages and salaries per worker in nonagricultural establishments. Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business.*
Food:			
(1) Wholesale Price Index	4.93	DRI-MM	Processed foods and feeds component of producer price index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review,* Table 25.
(2) Consumer Price Index	4.89	DRI-MM	Food and beverages component of Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review,* Table 22.
Other Business Services	4.62	DRI-MM	Services component of Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review,* Table 23.
Supplies	3.29	DRI-MM	All item Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review,* Table 22.
Fuel Oil and Coal	2.07	DRI-MM	Implicit price deflator—consumption of fuel oil and coal (derived from fuel oil component of Consumer Price Index). Source: U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business,* (monthly) Table 26 (7.111).
Drugs	1.41	DRI-CFS	Pharmaceutical preparations, ethical component of producer price index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Producer Prices and Price Indexes,* (monthly), Table 6.
Health Services	1.20	DRI-CFS	Physician services component of Consumer Price Index for all urban consumers. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review,* Table 23.

Appendix I.—*Derivation of "Market Basket" Index for SNF Routine Service Costs—Continued*

Cost category	Routine [1] weight 1979	Forecaster 1980–81	"Price" variable used
Electricity	1.17	DRI-MM	Implicit price deflator—consumer of electricity (derived from electricity component of Consumer Price Index). Source: U.S. Dept. of Commerce, Bureau of Economic Analysis.
Natural Gas	.96	DRI-MM	Implicit price deflator for natural gas (derived from utility (piped) gas component of Consumer Price Index). Source: Same as electricity, above.
Water and Sanitary Services	.48	DRI-CFS	Water and sewerage maintenance component of Consumer Price Index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23.
Miscellaneous	4.81	DRI-MM	All Item Consumer Price Index, All Urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23.

[1] The basic weights for all major categories of skilled nursing home costs were obtained from the DHEW-National Center for Health Statistics (NCHS) National Nursing Home Surveys (NNHS) for 1972 and 1976 for homes certified for participation in the Medicare program. See *Nursing Home Costs 1972, United States: National Nursing Home Survey, August 1973–April 1974, DHEW, NCHA; National Nursing Home Survey: 1977 Summary for the United States, Vital and Health Statistics, Series 13, Number 43.*

A Laspeyres price index was constructed using 1977 weights and "price" variables indicated in this table. In calendar year 1977 each "price" variable has an index value of 100.0. The relative routine service cost weights change each period in accordance with "price" changes for each "price" variable. Cost categories with relatively higher "price" increases get relatively higher cost weights and vice versa.

[2] DRI-CFS refers to Data Resources, Inc., Cost Forecasting Service (CFS 802), 1750 K Street, N.W., Washington, D.C. 20006.

[3] DRI-MM refers to Data Resources, Inc., Macro Model (Control 072480), 29 Hartwell Avenue, Lexington, Massachusetts 02173.

Appendix II—*SMSA Constituent Counties*

SMSA/NECMA	State	County
Abilene	TX	Callahan.
		Jones.
		Taylor.
Akron	OH	Portage.
		Summit.
Albany	GA	Dougherty.
		Lee.
Albany, Schenectady, Troy	NY	Albany.
		Montgomery.
		Rensselaer.
		Saratoga.
		Schenectady.
Albuquerque	NM	Bernalillo.
		Sandoval.
Alexandria	LA	Grant.
		Rapides.
Allentown, Bethlehem, Easton.	PA, NJ	Warren, NJ.
		Carbon, PA.
		Lehigh, Pa.
		Northampton, PA.
Altoona	PA	Blair.
Amarillo	TX	Potter.
		Randall.
Anaheim, Santa Ana, Garden Grove.	CA	Orange.
Anchorage	AK	Anchorage.
Anderson	IN	Madison.
Ann Arbor	MI	Washtenaw.
Anniston	AL	Calhoun.
Appleton, Oshkosh	WI	Calumet.
		Outagamie.
		Winnebago.
Asheville	NC	Buncombe.
		Madison.
Atlanta	GA	Butts.
		Clayton.
		Cherokee.
		Douglas.
		Cobb.
		Fayette.
		Forsyth.
		DeKalb.
		Henry.
		Nowton.
		Fulton.
		Paulding.
		Gwinnett.
		Rockdale.
		Walton.
Atlantic City	NJ	Atlantic.
Augusta	GA, SC	Columbia, GA.
		Richmond, GA.
		Aiken, SC.
Austin	TX	Hays.
		Travis.
		Williamson.
Bakersfield	CA	Kern.
Baltimore	MD	Anne Arundel.
		Baltimore.
		Baltimore City.
		Carroll.
		Harford.
		Howard.
Baton Rouge	LA	Ascension.
		East Baton Rouge.
		Livingston.
		West Baton Rouge.
Battle Creek	MI	Barry.
		Calhoun.
Bay City	MI	Bay.
Beaumont, Port Arthur, Orange.	TX	Hardin.
		Jefferson.
		Orange.
Billings	MT	Yellowstone.
Biloxi, Gulfport	MS	Hancock.
		Harrison.
		Stone.
Binghampton	NY, PA	Broome, NY.
		Tioga, NY.
		Susquehanna, PA.
Birmingham	AL	Jefferson.
		St. Clair.
		Shelby.
		Walker.
Bismarck	ND	Burleigh.
		Morton.
Bloomington	IN	Monroe.
Bloomington, Normal	IL	McLeah.
Boise City	ID	Ada.
Boston, Lowell, Brockton, Lawrence, Haverhill.	MA, NH	Essex, MA.
		Middlesex, MA.
		Norfolk, MA.
		Suffolk, MA.
		Plymouth, MA.
		Rockingham, NH.
Bradenton	FL	Manatee.
Bridgeport, Stamford, Norwalk, Danbury.	CT	Fairfield.
Brownsville, Harlingen, San Benito.	TX	Cameron.
Bryan, College Station	TX	Brazos.
Buffalo	NY	Erie.
		Niagara.
Burlington	NC	Alamance.
Caguas	PR	Caguas.
		Gurabo.
		San Lorenzo.
Canton	OH	Carroll.
		Stark.
Cedar Rapids	IA	Linn.
Champaign, Urbana, Rantoul.	IL	Champaign.
Charleston, North Charleston.	SC	Berkeley.
		Charleston.
		Dorchester.
Charleston	WV	Kanawha.
		Putnam.
Charlotte, Gastonia	NC	Gaston.
		Mecklenburg.
		Union.
Chattanooga	TN, GA	Catoosa, GA.
		Dade, GA.
		Walker, GA.
		Hamilton, TN.
		Marion, TN.
		Sequatchie, TN.
Chicago	IL	Cook.
		DuPage.
		Kane.
		Lake.
		McHenry.
		Will.
Cincinnati	OH, KY, IN	Dearborn, IN.
		Boone, KY.
		Campbell, KY.
		Kenton, KY.
		Clermont, OH.
		Hamilton, OH.
		Warren, OH.
Clarksville, Hopkinsville	TN, KY	Montgomery, KY.
		Christian, TN.
Cleveland	OH	Cuyahoga.
		Geauga.
		Lake.
		Medina.
Colorado Springs	CO	El Paso.
		Teller.
Columbia	MO	Boone.
Columbia	SC	Lexington.
		Richland.
Columbus	GA, AL	Russell, AL.
		Chattahoochee, GA.
		Columbus City, GA.
Columbus	OH	Delaware.
		Fairfield.
		Franklin.
		Madison.
		Pickaway.
Corpus Christi	TX	Nueces.
		San Patricio.

Appendix II—*SMSA Constituent Counties*—Continued

SMSA/NECMA	State	County
Dallas, Fort Worth	TX	Collin.
		Dallas.
		Denton.
		Ellis.
		Hood.
		Johnson.
		Kaufman.
		Parker.
		Rockwall.
		Tarrant.
		Wise.
Davenport, Rock Island, Moline.	IA, IL	Henry, IL.
		Rock Island, IL.
		Scott, IA.
Dayton	OH	Greene.
		Miami.
		Montgomery.
		Preble.
Daytona Beach	FL	Volusia
Decatur	IL	Macon.
Denver, Boulder	CO	Adams.
		Arapahoe.
		Boulder.
		Denver.
		Douglas.
		Gilpin.
		Jefferson.
Des Moines	IA	Polk.
		Warren.
Detroit	MI	Lapeer.
		Livingston.
		Macomb.
		Oakland.
		St. Clair.
		Wayne.
Dubugue	IA	Dubugue.
Duluth, Superior	MN, WI	St. Louis, MN.
		Douglas, WI.
Eau Claire	WI	Chippewa.
		Eau Claire.
Elkhart	IN	Elkhart.
Elmira	NY	Chemung.
El Paso	TX	El Paso.
Enid	OK	Garfield.
Erie	PA	Ene.
Eugene, Springfield	OR	Lane.
Evansville	IN, KY	Gibson, IN.
		Posey, IN.
		Vanderburgh, IN.
		Warrick, IN.
		Henderson, KY.
Fargo, Moorhead	ND, MN	Clay, MN.
		Cass, ND.
Fayetteville	NC	Clumberland.
Fayetteville, Springdale	AR	Benton.
		Washington.
Flint	MI	Genesee.
		Shiawassee.
Florence	AL	Colbert.
		Lauderdale.
Fort Collins	CO	Larimer.
Fort Lauderdale, Hollywood.	FL	Broward.
Fort Myers, Cape Coral	FL	Lee.
Fort Smith	AR, OK	Crawford, AR.
		Sebastian, AR.
		Le Flore, OK.
		Sequoyah, OK.
Fort Wayne	IN	Adams.
		Allen.
		Dekalb.
		Wells.
Fresno	CA	Fresno.
Gadsden	AL	Etowah.
Gainesville	FL	Alachua.
Galveston, Texas City	TX	Galveston.
Gary, Hammond, East Chicago.	IN	Lake.
		Porter.
Grand Forks	ND, MN	Grand Forks, ND.
		Polk, MN.
Grand Rapids	MI	Kent.
		Ottawa.
Great Falls	MT	Cascade.
Greeley	CO	Weld.
Green Bay	WI	Brown.
Greensboro, Winston-Salem, High Point.	NC	Davidson.
		Forsyth.
		Guilford.
		Randolph.
		Stokes.
		Yadkin.
Greenville, Spartanburg	SC	Greenville.
		Pickens.
		Spartanburg.
Hamilton, Middletown	OH	Butler.
Harrisburg	PA	Cumberland
		Dauphin.
		Perry.
Hartford, New Britain, Bristol.	CT	Hartford.
		Middlesex.
		Tolland.
		Litchfield.
Honolulu	HI	Honolulu.
Houston	TX	Brazoria.
		Fort Bend.
		Harris.
		Liberty.
		Montgomery.
		Waller.
Huntington, Ashland	WV, KY, OH	Boyd, KY.
		Greenup, KY.
		Lawrence, OH.
		Cabell, WV.
		Wayne, WV.
Huntsville	AL	Limestone.
		Madison.
		Marshall.
Indianapolis	IN	Boone.
		Hamilton.
		Hancock.
		Hendricks.
		Johnson.
		Marion.
		Morgan.
		Shelby.
Iowa City	IA	Johnson.
Jackson	MI	Jackson.
Jackson	MS	Hinds.
		Rankin.
Jacksonville	FL	Baker.
		Clay.
		Duval.
		Nassau.
		St. James.
Janesville, Beloit	WI	Rock.
Jersey City	NJ	Hudson.
Johnson City, Kingport, Bristol.	TN, VA	Carter, TN.
		Hawkins, TN.
		Sullivan, TN.
		Unicoi, TN.
		Washington, TN.
		Bristol City, VA.
		Scott, VA.
		Washington, VA.
Johnstown	PA	Cambria.
		Somerset.
Kalamazoo, Portage	MI	Kalamazoo.
		Van Buren.
Kankakee	IL	Kankakee.
Kansas City	MO, KS	Johnson, KS.
		Wyandotte, KS.
		Cass, MO.
		Clay, MO.
		Jackson, MO.
		Platte, MO.
		Ray, MO.
Kenosha	WI	Kenosha.
Killeen, Temple	TX	Bell.
		Coryell.
Knoxville	TN	Anderson.
		Blount.
		Knox.
		Union.
Kokomo	IN	Howard.
		Tipton.
La Crosse	WI	La Crosse.
Lafayette	LA	Lafayette.
Lafayette, West Lafayette	IN	Tippecanoe.
Lake Charles	LA	Calcasieu.
Lakeland, Winter Haven	FL	Polk.
Lancaster	PA	Lancaster.
Lansing, East Lansing	MI	Clinton.
		Eaton.
		Ingham.
		Ionia.
Laredo	TX	Webb.
Las Cruces	NM	Dona Ana.
Las Vegas	NV	Clark.
Lawrence	KS	Douglas.
Lawton	OK	Comanche.
Lewiston, Auburn	ME	Androscoggin.
Lexington, Fayette	KY	Bourbon.
		Clark.
		Fayette.
		Jessamine.
		Scott.
		Woodford.
Lima	OH	Allen.
		Auglaize.
		Putnam.
		Van Wert.
Lincoln	NE	Lancaster.
Little Rock, North Little Rock.	AR	Pulaski.
		Saline.
Long Branch, Asbury Park	NJ	Monmouth.
Longview, Marshall	TX	Gregg.
		Harrison.
Lorain, Elyria	OH	Lorain.
Los Angeles, Long Beach	CA	Los Angeles.
Louisville	KY, IN	Clark, IN.
		Floyd, IN.
		Bullitt, KY.
		Jefferson, KY.
		Oldham, KY.
Lubbock	TX	Lubbock.
Lynchburg	VA	Amherst.
		Appomattox.
		Campbell.
		Lynchburg City.
Macon	GA	Bibb
		Houston.
		Jones.
		Twiggs.
Madison	WI	Dane.
Manchester, Nashua	NH	Hillsboro.
		Merrimack.
Mansfield	OH	Richland.
Mayaguez	PR	Anasco.
		Hormaqueros.
		Mayaguez.
McAllen, Pharr, Edinburg	TX	Hidalgo.
Melbourne, Titusville, Cocoa.	FL	Brevard.
Memphis	TN, AR, MS	Crittendin, AK.
		DeSoto, MS.
		Shelby, TN.
		Tipton, TN.
Miami	FL	Dade.
Midland	TX	Midland.
Milwaukee	WI	Milwaukee.
		Ozaukee.
		Washington.
		Waukesha.
Minneapolis-St. Paul	MN, WI	Anoka, MN.
		Carver, MN.
		Dakota, MN.
		Chisago, MN.
		Hennepin, MN.
		Ramsey, MN.
		Scott, MN.
		Washington, MN.
		Wright, MN.
		St. Croix, WI.
Mobile	AL	Baldwin.
		Mobile.
Modesto	CA	Stanislaus.
Monroe	LA	Ouachita.
Montgomery	AL	Autuage.
		Elmore.
		Montgomery.
Muncie	IN	Delaware.
Muskegon, Norton Shores, Muskegon Heights.	MI	Muskegon.
		Oceana.
Nashville, Davidson	TN	Cheatham.
		Davidson.
		Dickson.
		Sumner.
		Robertson.
		Rutherford.
		Wilson.
		Williamson.

Appendix II—*SMSA Constituent Counties*—Continued

SMSA/NECMA	State	County
Nassau, Suffolk	NY	Nassau.
		Suffolk.
New Bedford, Fall River	MA	Bristol.
New Brunswick, Perth Amboy, Sayreville.	NJ	Middlesex.
New Haven, West Haven, Waterbury, Meriden.	CT	New Haven.
New London, Norwich	CT	New London.
New Orleans	LA	Jefferson.
		Orleans.
		St. Bernard.
		St. Tammany.
New York	NY, NJ	Bronx, NY.
		Kings, NY.
		New York, NY.
		Putnam, NY.
		Queens, NY.
		Richmond, NY.
		Rockland, NY
		Westchester, NY.
		Bergen, NJ.
Newark	NJ	Essex.
		Morris.
		Somerset.
		Union.
Newport News, Hampton	VA	Hampton City.
		Williamsburg City.
		Newport News City
		Gloucester.
		York.
		James City.
		Poquoson.
Norfolk, Virginia Beach, Portsmouth.	VA, NC	Chesapeake City, VA.
		Norfolk City, VA.
		Portsmouth City, VA.
		Suffolk City, VA.
		Virginia Beach City, VA.
		Currituck, NC.
Northeast Pennsylvania	PA	Lackawanna.
		Luzerne.
		Monroe.
Odessa	TX	Ector.
Oklahoma City	OK	Canadian.
		Cleveland.
		McClain
		Oklahoma
		Pottowatomie.
Omaha	NE, IA	Pottawattamie, IA.
		Douglas, NE.
		Sarpy, NE.
Orlando	FL	Orange.
		Osceola.
		Seminole.
Owensboro	KY	Daviess.
Oxnard, Simi Valley, Ventura.	CA	Ventura.
Panama City	FL	Bay
Parkersburg, Marietta	WV, OH	Washington, OH.
		Wirt, WV.
		Wood, WV.
Pascagoula, Moss Point	MS	Jackson.
Paterson, Clifton, Passaic	NJ	Passaic.
Pensacola	FL	Escambia.
		Santa Rosa.
Peoria	IL	Peoria.
		Tazewell.
		Woodford.
Petersburg, Colonial Heights, Hopewell.	VA	Colonial Heights City.
		Dinwiddie.
		Hopewell City.
		Petersburg City.
		Prince George.
Philadelphia	PA, NJ	Burlington, NJ.
		Camden, NJ.
		Gloucester, NJ.
		Bucks, PA.
		Chester, PA.
		Delaware, PA.
		Montgomery, PA.
		Philadelphia, PA.
Phoenix	AZ	Maricopa.
Pine Bluff	AR	Jefferson.
Pittsburgh	PA	Allegheny.
		Beaver.
		Washington.
		Westmoreland.
Pittsfield	MA	Berkshire.
Ponce	PR	Juana Diaz.
		Ponce.
		Villalba.
Portland	ME	Cumberland.
		Sagadahoc.
		York.
Portland	OR, WA	Clackamas, OR.
		Multnomah, OR.
		Washington, OR.
		Clark, WA.
Poughkeepsie	NY	Dutchess.
Providence, Warwick, Pawtucket.	RI	Bristol.
		Kent.
		Providence.
		Washington.
		Newport.
Provo, Orem	UT	Utah.
Pueblo	CO	Pueblo.
Racine	WI	Racine.
Raleigh, Durham	NC	Durham.
		Orange.
		Wake.
Rapid City	SD	Pennington.
		Meade.
Reading	PA	Berks.
Reno	NV	Washoe.
Richland, Kennewick, Pasco.	WA	Benton.
		Franklin.
Richmond	VA	Charles City.
		Chesterfield.
		Goochland.
		Hanover.
		Henrico.
		New Kent Co.
		Powhatan.
		Richmond City.
Riverside, San Bernardino, Ontario.	CA	Riverside.
		San Bernardino.
Roanoke	VA	Botetourt.
		Roanoke.
		Craig.
		Roanoke City.
		Salem City.
Rochester	MN	Olmstead.
Rochester	NY	Livingston.
		Monroe.
		Ontario.
		Orleans.
		Wayne.
Rockford	IL	Boone.
		Winnebago.
Sacramento	CA	Placer.
		Sacramento.
		Yolo.
Saginaw	MI	Saginaw.
St. Cloud	MN	Benton.
		Sherburne.
		Stearns.
St. Joseph	MO	Andrew.
		Buchanan.
St. Louis	MO, IL	Clinton, IL.
		Madison, IL.
		Monroe, IL.
		St. Clair, IL.
		Franklin; MO.
		Jefferson, MO.
		St. Charles, MO.
		St. Louis, MO.
		St. Louis City; MO.
Salem	OR	Marion.
		Polk.
Salinas, Seaside, Monterey	CA	Monterey.
Salt Lake City, Ogden	UT	Davis.
		Salt Lake.
		Tooele.
		Weber.
San Angelo	TX	Tom Green.
San Antonio	TX	Bexar.
		Comal.
		Guadalupe.
San Diego	CA	San Diego.
San Francisco, Oakland	CA	Alameda.
		Contra Costa.
		Marin.
		San Francisco.
		San Mateo.
San Jose	CA	Santa Clara.
San Juan	PR	Bayamon.
		Carolina.
		Canovanas.
		Catano.
		Guaynabo.
		Loiza.
		San Juan.
		Toa Baja.
		Trujillo Alto.
Santa Barbara, Santa Maria, Lompoc.	CA	Santa Barbara.
Santa Cruz	CA	Santa Cruz.
Santa Rosa	CA	Sonoma.
Sarasota	FL	Sarasota.
Savannah	GA	Bryan.
		Chatham.
		Effingham.
Seattle, Everett	WA	King.
		Snohomish.
Sherman, Denison	TX	Grayson.
Shreveport	LA	Bossier.
		Caddo.
		Webster.
Sioux City	IA, NE	Woodbury, IA.
		Dakota, NE.
Sioux Falls	SD	Minnehaha.
South Bend	IN	Marshall.
		St. Joseph.
Spokane	WA	Spokane.
Springfield	IL	Menard.
		Sangamon.
Springfield	MO	Christian.
		Greene.
Springfield	OH	Champaign.
		Clark.
Springfield, Chicopee, Holyoke.	MA	Hampden.
		Hampshire.
Steubenville, Weirton	OH, WV	Jefferson, OH.
		Brooke, WV.
		Hancock, WV.
Stockton	CA	San Joaquin.
Syracuse	NY	Madison.
		Onondaga.
		Oswego.
Tacoma	WA	Pierce.
Tallahassee	FL	Leon.
		Wakulla.
Tampa, St. Petersburg	FL	Hillsborough.
		Pasco.
		Pinellas.
Terre Haute	IN	Clay.
		Sullivan.
		Vermillion.
		Virgo.
Texarkana	TX, AR	Little River, AR.
		Miller, AR.
		Bowie, TX.
Toledo	OH, MI	Monroe, MI.
		Fulton, OH.
		Lucas, OH.
		Ottawa, OH.
		Wood, OH.
Topeka	KS	Jefferson.
		Osage.
		Shawnee.
Trenton	NJ	Mercer.
Tucson	AZ	Pima.
Tulsa	OK	Creek.
		Mayes.
		Osage.
		Rogers.
		Tulsa.
		Wagoner.
Tuscaloosa	AL	Tuscaloosa.
Tyler	TX	Smith.

Appendix II—*SMSA Constituent Counties*—Continued

SMSA/NECMA	State	County
Utica, Rome	NY	Herkimer.
		Oneida.
Vallejo, Fairfield, Napa	CA	Napa.
		Solano.
Vineland, Millville, Bridgeton.	NJ	Cumberland.
Waco	TX	McLennan.
Washington	DC, MD, VA	DC.
		Charles, MD.
		Montgomery, MD.
		Price Georges, MD.
		Alexandria City, VA.
		Arlington, VA.
		Fairfax City, VA.
		Fairfax, VA.
		Falls Church City, VA.
		Loudoun, VA.
		Prince William, VA.
		Manassas City, VA.
		Manassas Park City, VA.
Waterloo, Cedar Falls	IA	Black Hawk.
West Palm Beach, Boca Raton.	FL	Palm Beach.
Wheeling	WV, OH	Belmont, OH.
		Marshall, WV.
		Ohio, WV.
Wichita	KS	Butler.
		Sedgwick.
Wichita Falls	TX	Clay.
		Wichita.
Williamsport	PA	Lycoming.
Wilmington	DE, NJ, MD	New Castle, DE.
		Cecil, MD.
		Salem, NJ.
Wilmington	NC	Brunswick.
		New Hanover.
Worcester, Fitchburg, Leominster.	MA	Worcester.
Yakima	WA	Yakima.
York	PA	Adams.
		York.
Youngstown, Warren	OH	Mahoning.
		Trumbull.

(Sections 1102, 1814(b), 1816(v)(1), 1866(a) and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395f(b), 1395x(v)(1), 1395cc(a), and 1395hh)

(Catalog of Federal Domestic Assistance Program No. 13.733, Medicare—Hospital Insurance)

Dated: August 22, 1980.

Howard Newman,

Administrator, Health Care Financing Administration.

Approved: August 27, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-26809 Filed 8-29-80; 8:45 am]

BILLING CODE 4110-35-M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Public Information Meeting

Notice is hereby given pursuant to § 800.6(b)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that on Tuesday, September 16, 1980, at 6:30 p.m., a public information meeting will be held at the Church of the Immaculate Conception, 74 West Main Street, Waterbury, Connecticut.

The meeting is being called by the Executive Director of the Council in accordance with § 800.6(b)(3) of the Council's regulations. The purpose of the meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations, and interested citizens to receive information and express their views concerning the proposed demolition and/or redevelopment of buildings within the Downtown Waterbury Urban Renewal area (Project No. Conn. R-107). The Department of Housing and Urban Development retains approval authority for this project including acquisition, demolition, and disposition within the project boundaries. Disposition may have an adverse effect on the Downtown Historic District, an area eligible for the National Register of Historic Places. Consideration will be given to the undertaking, its effects on National Register or eligible properties, and alternate courses of action that could avoid, mitigate, or minimize any adverse effects on such properties.

The following is a summary of the agenda of the meeting:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.

II. A description of the undertaking and an evaluation of its possible effects on the properties by the Department of Housing and Urban Development.

III. A statement by the Connecticut State Historic Preservation Officer.

IV. Statements from local officals, private organizations, and the public on the effects of the undertaking on properties proposed for redevelopment and/or demolition in the project area.

V. A general question period.

Speakers should limit their statements to 5 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005; 202-254-3495.

Dated: August 29, 1980.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 80-26866 Filed 9-3-80; 8:45 am]

BILLING CODE 4310-10-M

Meeting

Notice is hereby given that a meeting of the Advisory Council on Historic Preservation will take place on September 24-25, 1980, in New Castle, Pennsylvania. The purpose of the meeting will be to respond to a request from the Secretary of the Interior pursuant to Section 9(a) of the Mining in National Parks Act (16 U.S.C. 1908) for advice as to alternative measures that may be taken by the United States to mitigate or abate the adverse effects of surface coal mining proposed to take place adjacent to McConnell's Mill State Park National Natural Landmark.

The Council was established by the National Historic Preservation Act to advise the President and the Congress on matters relating to historic preservation. Additionally, pursuant to the Mining in National Parks Act, the Council also provides advice to the Secretary of the Interior concerning designated historic or natural national landmarks that may be threatened by surface mining activity.

The Council will be represented by a panel of Council members including representatives of Federal agency members and private citizen members of the Council. The primary purpose of the meeting is to hear the views of interested governmental and private organizations as well as private citizens in order to develop Council recommendations to the Secretary of the Interior. Additionally, the Council will visit the designated natural landmark and the proposed mining site. The panel will meet in New Castle, Pennsylvania in Hearing Room #1, Lawrence County Government Center, Court Street. Times for the meeting have yet to be set and may be obtained from the Executive Director of the Council.

The panel is particularly interested in gathering information regarding the anticipated effects of the proposed mining activity on the designated natural landmark and concerning possible measures to mitigate any potentially adverse effects. Toward this end, the Council encourages oral and written statements from all concerned parties. Written statements should be submitted to the Executive Director by September 17, 1980. Persons wishing to make oral statements should notify the Executive Director by September 22, 1980. Additional information concerning the meeting or the submission of statements to the panel is available from the Executive Director, Advisory Council on Historic Preservation, Suite 430, 1522 K Street, N.W., Washington, D.C. 20005, 202-254-3974.

Dated: September 2, 1980.
Thomas F. King,
Acting Executive Director.
[FR Doc. 80-27153 Filed 9-3-80; 8:45 am]
BILLING CODE 4310-10-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A-9603]

Public Lands in Cochise County, Ariz.; Exchange

Correction

In FR Doc. 80-21924, appearing on page 48950, in the issue of Tuesday, July 22, 1980, and corrected on page 52934 in the issue of Friday, August 8, 1980, third column, the land description for section 24 should have read:

Section 24, S½ Lot 4, Lots 5, 8, S½ Lot 10, S½SW¼NE¼, S½SE¼NW¼, E½E½SW¼, W½SE¼.

BILLING CODE 1505-01-M

New Mexico; Proposed Southern Rio Grand Grazing Management Program; Intent To Prepare and Environmental Impact Statement

August 15, 1980.

The Department of Interior, Bureau of Land Management (BLM), Las Cruces District, New Mexico will prepare an Environmental Impact Statement (EIS). The statement will analyze livestock grazing on 2.17 million acres of public land administered by the Bureau of Land Management in the Southern Rio Grande EIS Area. The counties involved are Dona Ana, Sierra, Luna and small portions of Socorro and Otero.

Public meetings on the scope of the Southern Rio Grande Grazing Management Program will be held in Las Cruces, New Mexico on September 24, 1980, at the New Mexico State University Agriculture Building auditorium and in Truth or Consequences, New Mexico on September 25, 1980, at the Convention Center at the corner of Daniel and McAdoo. Both meetings will begin at 7:00 p.m. The purpose of these meetings are threefold:

1. To inform the public of those aspects BLM proposes to analyze in the statement (the proposed action and tentative alternatives based on existing data and knowledge of the area);

2. Gather resource information from the public; and

3. Consider concerns, problems and/or issues important to the public for possible inclusion into the statement. Comments received at the public meetings will be used to clairfy the proposed action and alternatives.

The contact for the Southern Rio Grande Grazing Management Program Environmental Impact Statement is: Ed Webb, Bureau of Land Management, Las Cruces District Office, 1705 N. Valley Drive, P.O. Box 1420, Las Cruces, New Mexico 88001. Telephone: Commercial Number (505) 523-2529; FTS 572-0234.

Michael T. Solan,
Acting State Director.
August 20, 1980.
[FR Doc. 80-27004 Filed 9-3-80; 8:45 am]
BILLING CODE 4310-84-M

Multiple Use Advisory Council; Meeting

August 25, 1980.

AGENCY: Bureau of Land Management, Interior.

ACTION: Multiple Use Advisory Council; meeting.

Notice is hereby given, in accordance with Public Law 94-579 and 43 CFR Part 1780, that a meeting of the Moab District Multiple Use Advisory Council will be held on Thursday and Friday, October 2 and 3, 1980 at the Bureau of Land Management Office, 125 West Second South, Moab, Utah 84532.

The Council's committees will meet on Thursday, October 2, according to the following schedule:

10 a.m. to 12 noon—Wilderness Committee; Nuclear Waste Committee.

1 p.m. to 3 p.m.—Non-Renewable Resources Committee; Recreation and Wildlife Committee.

3 p.m. to 5 p.m.—Land and Water Use Evaluation Committee; Range Environmental Statements Committee.

The Advisory Council will convene as a whole at 8 a.m. on Friday, October 3 to hear reports and recommendations from each of the committees, and to discuss the following:

The Bureau Planning System: Grand Resource Management Plan, Grand Gulch Plan, Moab Canyon Corridor Study.

District Annual Work Plan and outlook for Fiscal Year 1981.

The meeting will be open to the public. Interested persons may attend meetings of the committees and may make oral statements to the entire Council on Friday between 8 and 9 a.m., or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the above address or by telephone (801-259-6111) by September 25, 1980. Depending upon the number of persons wishing to make an oral statement, a per-person time limit may be established.

Summary minutes of the meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within thirty days following the meeting.

S. Gene Day,
District Manager.
[FR Doc. 80-27011 Filed 9-3-80; 8:45 am]
BILLING CODE 4310-84-M

Nevada; Elko District Grazing Advisory Board Meeting

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Elko District Grazing Advisory Board will be held on October 9, 1980.

The meeting will begin at 9:00 a.m. in the conference room of the Bureau of Land Management office at 2002 Idaho Street, Elko, Nevada.

The agenda for the meeting will include: (1) Election of a Chairman and Vice-Chairman; (2) a discusson of and action on expenditure of Range Betterment funds for range improvements; (3) a review of current policy and programs relating to implementation of allotment management plans; (4) a progress report on Wells Resource Area inventories; (5) a discussion of the resource managment planning system, and a progress report on the Wells Resource Area planning effort; and (6) arrangments for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Board between 10:30 a.m. and 11:00 a.m. on Thursday, October 9, 1980 or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 2002 Idaho Street, Elko, Nevada 89801 by October 2, 1980. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Rodney Harris,
District Manager.
[FR Doc. 27009 Filed 9-3-80; 8:45 am]
BILLING CODE 4310-84-M

Scientific Committee of the Outer Continental Shelf (OCS) Advisory Board; Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92–463, 5 U.S.C. App. I and the Office of Management and Budget's Circular A–63 Revised.

The Scientific Committee of the Outer Continental Shelf Advisory Board will meet on October 6–10, 1980 from 8:00 a.m. to 5:00 p.m., each day. The meeting will be held in the Yukon Room of the Sheraton Hotel located at 401 East 6th Avenue, Anchorage, Alaska.

The agenda for the meeting will include the following subjects:

- The Research Plan of the Georges Bank Biological Task Force
- Discussion of Options for Peer Review of BLM's OCS Environmental Studies
- BLM Contract Operations
- Review of Specific Components of BLM's OCS Environmental Studies in Alaska

The meeting of this committee is open to the public. Approximately 50 visitors can be accomodated on a first-come/first-served basis. The committee has planned some field trips to various sites during the week of this meeting. Because of logistics limitations these trips are not open to the public. The dates for these trips have not been established. All inquiries concerning this meeting should be addressed to: Piet deWitt, Chief, Branch of Offshore Studies (543), Bureau of Land Management, Washington, D.C. 20240, telephone: (202) 343–7744.

Ed Hastey,

Associate Director, Bureau of Land Management.

Approved: August 29, 1980.

Daniel P. Beard;

Acting Assistant Secretary of the Interior.

[FR Doc. 80–26991 Filed 9–3–80; 8:45 am]

BILLING CODE 4310–84–M

Susanville District Advisory Council; Meeting

Notice is hereby given in accordance with Public Law 94–579 (FLPMA) that a meeting of the Susanville District Advisory Council will be held October 2 and 3, 1980.

The meeting will begin at 10:00 a.m. October 2, 1980 in the Conference Room of the Bureau of Land Management Office at 705 Hall Street, Susanville, California.

This will be the first meeting of the newly formed Susanville District Advisory Council. The agenda will be structured to provide an opportunity for the Council members to become better acquainted. Items on the agenda will include organization and structure of the Council, the role of the Council, and briefings to acquaint the members with the many issues facing the District Manager on the Susanville District.

The meeting is open to the public and time will be provided for public comment.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction within 30 days following the meeting.

C. Rex Cleary,

District Manager.

[FR Doc. 80–27013 Filed 9–3–80; 8:45 am]

BILLING CODE 4310–84–M

Winnemucca District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Public Law 92–463 that a meeting of the Winnemucca District Grazing Board will be held on October 10, 1980. The meeting will begin at 10:00 A.M. in the conference room of the Bureau of Land Management Office at 704 East Fourth Street, Winnemucca, Nevada.

The agenda for the meeting will include: (1) Paradise-Denio Draft EIS; (2) 8100 fund recent expenditures and plans for next fiscal year; (3) wild horse/burro briefing; (4) consolidation of allotments on Sonoma-Gerlach Resource Area MFP II; (5) discussion on range improvement workshops; (6) arrangements for next meeting and discussion of agenda items.

The meeting is open to the public. Interested persons may make oral statements to the Board between 1:00 and 2:00 P.M. on October 10, 1980, or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, 705 East Fourth Street, Winnemucca, Nevada 89445 by September 22, 1980. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board meeting will be maintained in the District Office and available for public inspection (during regular business hours) within 30 days following the meeting.

Dated: August 26, 1980.

Vaden G. Stickley,

Acting District Manager for State Director, Nevada

[FR Doc. 80–27010 Filed 9–3–80; 8:45 am]

BILLING CODE 4310–84–M

Oregon, Salem District Office; Closure of Lands to Motorized Vehicles, Grass Mountain Area

Notice is here by given that the use of motorized Vehicles on the following described land is prohibited in accordance with the provisions of 43 CFR Part 8340 and Executive Order 11644 as amended:

Willamette Meridian, Oregon

T. 13 S., R. 8 W.,
Sec. 20, SE¼SE¼NE¼, SE¼SE¼SW¼, NE¼SE¼, S½SE¼;
Sec. 21, S½S½NE¼, S½SW¼NW¼, S½;
Sec. 29, N½N½NE¼, NE¼NE¼NW¼.

The above described land contains 570 acres of the upper slopes, ridges and summit of Grass Mountain in the Oregon Coast Range. It consists of a grass bald complex dissected by noble fir and douglas-fir forests. Environmental consideratons associated with these plant communities deems the area valuable for scientific study. In addition, a federally listed endangered plant species occurs in the area.

Recent use of motorized vehicles in the grass balds and their forested fringes has caused damage to vegetation, soil, and fauna habitat, and rutting and soil compaction have created undesirable visual intrusions. Continued use of motorized vehicles would pose a threat to the existence of the federally listed plant species, and intensify deterioration of other natural values for which the area is noted.

Closure signs have been posted. Maps showing the land affected by the closure are available at the Bureau of Land Management (BLM), Salem District Office, P.O. Box 3227 (3550 Liberty Road S.), Salem, Oregon 97302.

This closure does not apply to emergency, law enforcement, and Federal or other government vehicles, while being used for official or emergency purposes, or vehicles authorized by permit or contract. All authorized vehicular travel will be limited to that portion of BLM Road No. 13–8–9 which is located within the above described land.

The closure is effective immediately and shall remain in effect until further notice.

Violation of this closure could result in a fine of not more than $1,000.00 or imprisonment for not more than 12 months, or both.

Dated: August 26, 1980.

John D. Evans,

Acting District Manager.

[FR Doc. 80–27003 Filed 9–3–80; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

Endangered Species Permits; Receipt of Applications

The applicants listed below wish to be authorized to conduct the specified activity with the indicated Endangered Species:

Applicant: Jacksonville Zoological Park, PRT 2-6889, Jacksonville, FL 32218.

The applicant requests a permit to export in foreign commerce two captive-bred jaguars (*Panthera onca*) to the Alberta Game Farm, Alberta, Canada for enhancement of propagation and survival.

Applicant: San Diego Zoological Gardens, PRT 2-6900, San Diego, CA 92112.

The applicant requests a permit to import in foreign commerce two gorals (*Naemorhedus goral*) from the Peking Zoo, Peoples Republic of China for enhancement of propagation and survival.

Applicant: Horst W. Schmudde, PRT 2-6936, Colts Neck, NJ 07722.

The applicant requests a permit to purchase in interstate commerce two captive bred Nene or Hawaiian geese (*Branta sandvicensis*) from David Monuszko, Povlsbo, Washington for enhancement of propagation and survival.

Applicant: Hawaii Volcanoes, PRT 2-6937, National Park, HI 96718.

The applicant requests a permit to capture Nene or Hawaiian geese (*Branta sandvicensis*) on the island of Hawaii for banding and radio-telemetry purposes for enhancement of survival. The applicant also plans to photograph and monitor wild nene goose nests.

Applicant: Lincoln Park Zoological Gardens, PRT 2-6858, Chicago, IL 60614.

The applicant requests a permit to import two captive-bred gorillas (*Gorilla gorilla*) from the Howletts Park Zoo, England for enhancement of propagation and survival.

Applicant: Rio Grande Zoological Park, PRT 2-6907, Albuquerque, NM 87102.

The applicant requests a permit to import in foreign commerce two captive born Bactrian camels (*Camelus bactrianus*) from the Bowmanville Zoo, Ontario, Canada, for enhancement of propagation and survival.

Humane care and treatment during transport, if applicable, has been indicated by the applicant.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications on or before October 6, 1980 by submitting written data, views, or arguments to the Director at the above address.

Dated: August 29, 1980.

Larry LaRochelle,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80-27077 File 9-3-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: Philadelphia Zoological Garden, Philadelphia, PA 19104.

The applicant requests a permit to export in foreign commerce one orangutan *(Pongo pygmaeus)* born at the Philadelphia Zoo to the Baby Zoo Wingst, West Germany for enhancement of propagation and survival.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2-6922. Interested persons may comment on this applicaion on or before October 6, 1980, by submitting written data, views or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: August 27, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80-27078 Filed 9-3-80; 8:45 am]

BILLING CODE 4310-55-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Agricultural Cooperatives; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: August 29, 1980.

The following Notices were filed in accordance with section 10526 (a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change. The name and address of the agricultural cooperative, the location of the records, and the name and address of the person to whom inquiries and correspondence should be addressed, are published here for interested persons. Submission of information that could have bearing upon the propriety of a filing should be directed to the Commission's Bureau of Investigations and Enforcement, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Complete legal name of cooperative association or federation of cooperative associations: Durango Growers Association.

Principal mailing address (Street No., City, State, and Zip Code): 323 W. San Francisco, Santa Fe, NM 87501.

Where are records of your motor transportation maintained (Street No., City, State and Zip Code): 3125 E. Monterosa, Phoenix, AZ 85016.

Person to whom inquiries and correspondence should be addressed (Name and Mailing Address): David Robinson, P.O. Box 33152, Phoenix, AZ 85067.

(2) Complete legal name of cooperative association or federation of cooperative associations: Frontera Enterprises.

Principal mailing address (Street No., City, State, and Zip Code): 3400 Doniphan Drive, El Paso, TX 79922.

Where are records of your motor transportation maintained (Street No., City, State and Zip Code): 3400 Doniphan Drive, El Paso, TX 79922.

Person to whom inquiries and correspondence should be addressed (Name and Mailing Address): Arthur R. Janes, 3400 Doniphan Dr., El Paso, TX 79922.

(3) Complete legal name of cooperative association or federation of cooperative associations: Liberty Express, Co-Op, Inc.

Principal Mailing Address (Street No., City, State, and Zip Code): P.O. Box 82609, Oklahoma City, OK 73148.

Where are records of your motor transportation maintained (Street No., City, State and Zip Code): 601 N. Protland, Oklahoma City, OK 73147.

Person to whom inquiries and correspondence should be addressed (Name and Mailing Address): E. L. Fine,

P.O. Box 82609, Oklahoma City, OK 73148.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26985 Filed 9-3-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams.

MC-FC-78607. By decision of August 14, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 5, approved the transfer to Mindemann Trucking, Inc., Sussex, WI, of Certificate No. MC-119343, issued May 2, 1978, to Stone Transport, Inc., Pewaukee (Town of Brookfield), WI, authorizing the transportation of rough stone and cut stone, from Lannon, WI, and points in Menomonee and Lisbon Townships, Waukesha County, WI, to points in IN, IL, IA, MN, and MI, and empty pallets used in the transportation of rough and cut stone, from points in IN, IL, IA, MN, and MI, to Lannon, WI, and points in Minomonee and Lisbon Townships, Waukesha, WI. Transferee holds contract carrier authority from this Commission under MC-145746. Applicant's representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Rd., Madison, WI 53719.

MC-FC-78657. By decision of August 6, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. Part 1132 Review Board Number 5 approved the transfer to Package Delivery Co. D/B/A Burns Moving and Storage of Sioux Falls, SD of Certificate No. MC-40610 (Sub-No. 12) issued 11/26/75 to Herb McCormick, D/B/A McCormick Transportation of Rock Rapids, IA authorizing the transportation of household goods as defined by the Commission between Rock Rapids, IA, and points within 25 miles of Rock Rapids, on the one-hand, and, on the other, all points in ILlinois, Montana, Nebraska, North Dakota and Wisconsin. Applicant's representative is: Rich Burns, 4205 N. 4th Ave., Sioux Falls, SD 57104. TA application has not been filed.

MC-FC-78694. By a decision of July 28, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132 Review Board Number 5 approved the transfer to SIERRA NEVADA STAGE LINES, INC., of Certificate No. MC 2389 issued April 25, 1954, to NEVADA CENTRAL MOTOR LINES, INC., of Reno, NV (Douglas Fletcher, Trustee), authorizing the transportation of passengers and their baggage, and express, newspapers, and mail, in the same vehicle with passengers, between Reno, NV, and McGill, NV, serving all intermediate points, over a specified regular route. Applicant's representative is: Richard G. Campbell, One East First St., Reno, NV 89505. Transferee is not a carrier. TA lease not sought.

MC-FC-78701. By decision of July 28, 1980 issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 C.F.R. 1132, Review Board Number 5 approved the transfer to HAROLD R. NEELEY and LEONARD D. NEELEY of Jefferson City, MO of Certificate of Registration No. MC-119159 (Sub-No. 2) issued December 31, 1963, to EMMETT SCHMUTZ, doing business as SCHMUTZ TRAILER HEAVEN evidencing a right to engage in transportation in interstate commerce corresponding in scope to state certificate No. T-16,705 dated April 22, 1980 issued by State or Missouri Public Service Commission. Applicant's representative is: Thomas P. Rose, Esq., P.O. Box 205, Jefferson City, MO 65102.

MC-FC-78702. By decision of July 6, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1151 Review Board Number 5 approved the transfer to CARAVAN COACH LINES, INC., of Certificate No. MC-133730 (Sub-Nos. 1 and 2) and to be issed to CARAVAN TOURS, INC. authorizing the transportation of passengers and their baggage and related items in regular and charter operations from to and between specified points in New Jersey, New York, Pennsylvania and other points in the United States. Applicant's representative is: L. C. Major, Jr. Rev., Suite 400, Overlook Building, 6121 Linoolnia Road, Alexandria, VA. 22312.

MC-FC-78705. By decision of July 28, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132 Review Board Number 5 approved the transfer to ARIZONA WESTERN TRANSPORT, INC., of Chandler, AZ of Certificate No. MC-119295 (Sub 2) to RAY E. CAGLE, d.b.a. CAGTE BROS., of Phoenix, AZ, authorizing the transportation of (1) *lumber,* from points in Washington and Oregon to points in Arizona, and between points in Arizona, on the one hand, and, on the other, points in California, (2) *Chemical Fire retardants,* from Phoenix, AZ to points in California, Colorado, Idaho, Montana, Nevada, Oregon, Utah, Washington and Wyoming. Applicant's representative is: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. Transferee holds authority in MC 136602 and MC 136983. TA lease is sought.

MC-FC-78707. By decision of August 6, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 Review Board Number 5 approved the transfer to THAMES VALLEY INDUSTRIES INC., of Chatham, Ontario, Canada, of Certificate MC 139893 (Subs-2 and 5) issued October 20, 1977, and June 6, 1977, to THAMES VALLEY BRICK & BUILDING PRODUCTS LIMITED, of Chatham, Ontario, Canada, authorizing the transportation of *brick* and *stone* (except refractory and vitrified clay products, and commodities in bulk), between ports of entry located on the

United States-Canada Boundary line at the Niagara, Detroit, and St. Clair Rivers, on the one hand, and, on the other, points in New York, Pennsylvania, Ohio, Indiana, Illinois and Michigan. *Lumber,* from ports of entry on the United States-Canada Boundary line located in Michigan to points in Illinois, Indiana, Kentucky, Maryland, Michigan, Ohio, Pennsylvania, Virginia, West Virginia, Wisconsin, and the District of Columbia. Restriction: The operations authorized herein are restricted to the transportation of shipments originating at the facilities of Green Forest Lumber, Ltd., at or near Chatham, Ontario, Canada. Applicant's representative is: Jermey Kahn, Suite 733, Investment Bldg., 1511 K Street, NW., Washington, DC 20005. TA lease application has not been filed. Transferee is not a carrier.

MC-FC-78708. By decision of August 15, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the transfer to E. W. GRENON AND SON, INC., of Stoughton, MA, of Certificate Nos. MC 11528, issued June 9, 1960, and MC 11528 (Sub-3), issued December 17, 1973, to STATEWIDE TRANS., INC., authorizing the transportation of (1) *New Furniture,* from Boston, MA, to Tiverton, RI, and points in Kent and Providence Counties, RI, that part of ME south of ME Highway 25, and those in NH south and east of a line beginning at the ME-NH State line, and extending along NH Highway 25 to junction NH Highway 3A, thence south along NH Highway 3A to junction U.S. Highway 3, (formerly shown as NH Highway 3), thence along U.S. Highway 3, via Concord and Manchester, NH, to the MA-NH State line, including points on the indicated portion of the highways specified, (2) *Household goods,* between Boston, MA, and points within ten miles of Boston, on the one hand, and, on the other, points in ME, NH, RI, and MA. (3) *Household goods,* as defined by the Commission, between Boston, MA, and points within ten miles of Boston, on the one hand, and, on the other, points in MA, NH, CT, NY, and NJ. (4) *Household goods,* as defined by the Commission, between Winthrop, MA, and points within 15 miles of Winthrop, on the one hand, and, on the other, points in VT. Applicants' representatives are: Robert J. Gallagher, Esq., 1000 Connecticut Avenue, NW., Suite 1112, Washington, DC 20036, and Arthur Gersh, Esq., 160 Pleasant Street, Malden, MA 02148.

Note.—This application was previously assigned docket number MC-F-14436F.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-26983 Filed 9-3-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Finance Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR § 1100.240). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. Opposition under these rules should comply with Rule 240(c) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of any protest shall be filed with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(e) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservaiton Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such condition as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* any application directly related thereto filed within 30 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: August 25, 1980.

By the Commission, Review Board Number 5, Member Krock, Taylor and Williams. (In MC-F-14412F, Member Taylor dissented stating that he would publish with an impediment referring to the duplicate operations under common control.

MC-F-14271F, filed December 19, 1979. GILBERT CARRIER CORP., (Gilbert) (One Gilbert Drive, Secaucus, NJ 07094)—control—CAROLINA CARTAGE CO., INC. (Carolina) (P.O. Box 572 Greer, SC 29651). Representatives: Herbert Burstein, One World Trade Center, Suite 2373, New York, NY 10048 and Leonard A. Jaskiewicz, 1730 M Street, N.W., Suite 501, Washington, DC 20036. Gilbert seeks to acquire control of Carolina through the purchase of all issued and outstanding capital stock. Flexi-Van Corporation (300 Madison Avenue, New York, NY) which controls Gilbert through sole stock ownership, also seeks to acquire control of Carolina through this transaction. Flexi-Van a non-carrier, is a publicly held corporation. Carolina is authorized to operate as a motor common carrier pursuant to authority issued in MC-133937 and sub-numbers thereunder, as follows: (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (a) between points in SC, (b) between points in SC, on the one hand, and, on the other, airports at Atlanta, GA, and Charlotte, NC, (c) between points in AL on and bounded by a line commencing at the MS-AL state line and extending along U.S. Hwy 278 to the Alabama-GA state line, then southward along the AL-GA state line, to junction U.S. Hwy 84, then along U.S. Hwy 84 to the AL-MS state line, and then northward along the AL-MS state line to point of beginning, (d) between points in AL as set forth in (c) above, on the one hand, and, on the other, airports at Atlanta, GA, (e) between Atlanta, GA, and Charlotte, NC, (f) between Douglas Municipal Airport, Charlotte, NC, Hartsfield International Airport, Atlanta, GA, and the Greenville-Spartanburg Airport, Greenville, SC, on the one hand, and, on the other, the Dallas-Ft. Worth International Airport, Dallas-Ft. Worth, TX, Houston Intercontinental Airport, Houston, TX, Moisant International Airport, New Orleans, LA, Lambert International Airport, St. Louis, MO, Kansas City International Airport, Kansas City, MO, Metro Airport, Detroit, MI, Los Angeles International Airport, Los Angeles, CA, San Francisco International Airport, San Francisco, CA, and O'Hare International Airport and Midway Airport, Chicago, IL, (g) between points in NC and SC, on the one hand, and, on the other, the Miami International Airport in Dade County, FL, and the ports of Miami and Port Everglades, FL, (2) *motion and sound picture films, film, newspapers, books, and periodicals,* between Atlanta, GA, and Charlotte, NC, and (3) *wearing apparel,* on hangers, in polyethylene bags, packs, flats, and racks, between points in NC, SC, and Atlanta, GA, and (4) *wearing apparel,* on hangers, in polyethlene bags, flats, racks, and packs, between points in AL, FL, GA, MS, and TN, Dallas, Ft. Worth and Houston, TX, New Orleans, LA, St. Louis and Kansas City, MO, Detroit, MI, Los Angeles, San Francisco and San Diego, CA, Chicago, IL, Cleveland and Columbus, OH. Gilbert is authorized to operate as a common carrier pursuant to docket No. MC-52579 and sub-numbers thereunder. Condition: Flexi-Van Corporation, sole stockholder of Gilbert, is a non-carrier with its investments and functions primarily related to transportation. Accordingly, Flexi-Van Corporation will continue to be deemed a carrier within the meaning of 49 U.S.C. 11348 of Subtitle IV. It will, therefore, be subject to the applicable provisions to 49 U.S.C. subchapter III of chapter 111 relating to reporting and accounting, and 49 U.S.C. 11302 relating to the issuance of securities. Impediment: Applicant acknowledges duplications that exist between Gilbert and Carolina, and has submitted a plan to eliminate them. Insofar as the plan appears to contemplate sale of the duplication subsequent consummation of the control, which is prohibited by regulations, the plan is unacceptable. (Hearing site: Washington, DC.)

Note.—An application for temporary authority has been filed.

MC F-14412F, filed June 5, 1980. TROJAN FREIGHT LINES LTD. (Trojan) (5280 Maingate Drive, Mississauga, Ontario, Canada L5A 3S3)—Purchase (Portion)—K & T AIR FREIGHT, INC. (K&T) (16525 Eastland Street, Roseville, MI 48066). Representative: Jack Goodman, 39 So. LaSalle Street, Chicago, IL 60603, and Wm. B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Trojan seeks authority to purchase a portion of the interstate operating rights of K&T. TNT Canada, Inc., the sole stockholder of Trojan, and in turn, Alltrans Canada, Inc., the sole stockholder of TNT Canada, Inc., and in turn, Thomas Nationwide Transport Limited, a publicly held corporation and the sole stockholder of Alltrans Canada, Inc., seek authority to acquire control of said rights through the transaction. Trojan is purchasing the interstate operating rights awarded to K&T in MC-FC-77676 and evidenced by Certificate No. MC-31498, which authorizes the transportation, as a motor common carrier, over irregular routes, of *general commodities* (with usual exceptions), between points within eight miles of Detroit, MI, including Detroit, MI. Trojan holds no authority from the Commission. However, Trojan is affiliated with the following carriers: (1) Overland Western Limited (MC-111307) and Alltrans Express Limited (MC-135904) which were merged into TNT Canada, Inc. pursuant to MC-F-14068, decided February 14, 1980; (2) Overland Western International, Inc. (MC-42125); (3) Alltrans Express U.S., Inc. (MC-99388); (4) MMar Transportation, Inc. (MC-143445); (5) Alltrans Alaska Freight, Inc. (FF-461); and (6) Transport Champlain Express, Inc. (formerly E. J. Persons Transport Limited) (MC-116092). Condition: Certain duplications exist between the operating rights of TNT Canada, Inc., and Overland Western International, Inc., and the operating rights sought to be acquired by Trojan Freight Lines Ltd in this proceeding. Because applicant has submitted acceptable and cogent reasons for the justification of duplicate operating rights being held under common control, authorization and approval of this transaction is conditioned to provide that to the extent that the operating rights of Trojan Freight Lines Ltd., TNT Canada Inc., and Overland Western International, Inc., duplicate, they may not thereafter be severed from common ownership by sale or otherwise.

Note.—Application for temporary authority has been filed.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-27984 Filed 9-3-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the

protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

[Notice No. F-53]

The Following applications were filed in Region I.

Send protests to: Regional Authority Center, Interstate Commerce Commission, 150 Causeway St., Room 501, Boston, MA 02114.

MC 151098 (Sub-1-1TA), filed August 22, 1980. Applicant: JEN CHARTER, INC., 4 Graven Street, Coram, NY 11727. Representative: Deborah Laper, 4 Graven Street, Coram, NY 11727. *Contract carrier,* irregular routes: *Chemical wastes; orgnaic-liquid & powders carried in 55 gallon drums,* from Bay Shore, NY to Emelle, AL. Supporting shipper: Chemical Pollution Control Corp., 120 So. 4th Street, Bay Shore, NY 11706.

MC 119552 (Sub-1-7TA), filed August 21, 1980. Applicant: J. T. L., INC., 49 Rosedale Street, Providence, RI 02903. Representative: Robert L. Cope, Esq., 1730 M Street NW., Suite 501, Washington, DC 20036. *Contract carrier,* irregular routes: *General commodities (except household goods as defined by the Commission, and Classes A and B explosives),* between Marion County, IN, on the one hand, and, on the other, AL, AR, AZ, CA, CT, DE, FL, GA, IL, LA, MA, MD, ME, MI, MO, MD, NC, NH, NJ, NM, NY, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, under a continuing contract with Beverage Paper Co., a subsidiary of Simkins Industries. Supporting shipper: Beverage Paper Co., 717 West Washington Street, Indianapolis, IN 46204.

MC 147186 (Sub-1-1TA), filed August 21, 1980. Applicant: TEUFEL BROTHERS, INC., Inman Avenue, Avenel, NJ 07001. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract carrier,* irregular routes: *Asphalt emulsion in bulk, in tank vehicles* from Whippany, NJ to points in CT west of the Connecticut River, and points in Bradford, Lackawanna, Luzerne, Pike, Susquehanna, Wayne, and Wyoming Counties, PA. Supporting shipper: Dosch-King Emulsions, Inc., 16 Troy Hill Road, Whippany, NJ 07981.

MC 140248 (Sub-1-1TA), filed August 21, 1980. Applicant: IDEAL CONTRACT CARRIERS, INC., 89 Main Street, P.O. Box Z, Medway, MA 02053. Representative: Grove, Jaskiewicz, Gilliam and Cobert, 1730 M Street, Suite 501, Washington, DC 20036. *Contract carrier,* irregular routes: *Hides and related articles* between the facilities of A. C. Lawrence Leather Co., Inc., at or near Ashland, KY; South Paris, ME; Winchester, NH; and Hazelwood, NC on the one hand, and, on the other, points in CA, CO, IA, KY, ME, MI, MN, MO, NE, NH, NC, SD, TN, TX and WA under a continuing contract or contracts with A. C. Lawrence Leather Co. of Winchester, NH. Supporting shipper: A. C. Lawrence Leather Co., Inc., 1 Ridge Street, Winchester, NH 03470.

MC 146440 (Sub-1-18TA), filed August 20, 1980. Applicant: BOSTON CONTRACT CARRIER, INC., P.O. Box 68, Brookline, MA 02167. Representative: Alan Bernson, Suite 32, 34 Market Street, Everett, MA 02149. *General commodities* (with the usual exceptions) from points in Essex and Bristol Counties in MA to points in AL, AR, AZ, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, SC, SD, TN, TX, UT, VA, WA, WV, WI, and WY. Supporting shipper: Belle Shippers Association, Inc., Box 3494, 1 Newberry Street, Peabody, MA 01960.

MC 150254 (Sub-1-2TA), filed August 20, 1980. Applicant: ALLIED INTERNATIONAL TRUCKING CO., INC., 210 Beacham Street, Everett, MA 02149. Representative: Raymond P. Keigher, Esq., 401 E. Jefferson Street, Suite 102, Rockville, MD 20850. *Lumber and lumber products,* between Hartford, CT; Savannah, GA; Providence and Warwick, RI; Darlington, SC; and points in MA, NC, NH, NJ, NY, PA, TN, VA, and VT. Supporting shippers: Allied International, Inc., P.O. Box 56, Charlestown, MA 02129; Rossco Forest Products, P.O. Box 2068, So. Burlington, VT 05401.

MC 8973 (Sub-1-3TA), filed August 20, 1980. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, NJ 07047. Representative: Morton E. Kiel, 2 World Trade Center, Suite 1832, New York, NY 10048. *Plastic film and plastic bags, and materials, supplies and equipment used in the manufacture, sale and distribution thereof (except in bulk),* between Tyler, TX, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: USI Film Products, USI Chemicals Co., P.O. Box 818, Tyler, TX 75710.

MC 29854 (Sub-1-1TA), filed August 21, 1980. Applicant: THE HUDSON BUS TRANSPORTATION CO., INC., 437 Tonnele Avenue, Jersey City, NJ 07306. Representative: W. C. Mitchell, 370 Lexington Avenue, New York, NY 10017. *Passengers and their baggage, in the same vehicle with passengers, in special operations,* beginning and ending at points in that part of Rockland County, NY, on and east of a line beginning at a point on the southern boundary of Rockland County where it is intersected by Saddle River Road, thence along Saddle River Road to junction South Monsey Road, thence along South Monsey Road to junction College Road, thence along College Road to junction Forshay Road, thence along Forshay Road to junction Wilder Road, thence along Wilder Road to junction U.S. Hwy 202, thence along U.S. Hwy 202 to Junction New York Hwy 306, thence along New York Highway 306 to junction Willow Grove Road, thence along Willow Grove Road to junction Palisades Interstate Parkway, thence along Palisades Interstate Parkway to the Rockland-Orange County boundary, and extending to Atlantic County, NJ. Supporting shippers: There are 15 statements in support attached to this application which may be examined at the I.C.C. Regional Office in Boston, MA.

MC 56082 (Sub-1-1TA), filed August 20, 1980. Applicant: DAVIS & RANDALL, INC., 52 E. Main Street, Fredonia, NY 14063. Representative: Anthony C. Vance, Esq., 1307 Dolly Madison Blvd., McLean, VA 22101. *Castings and radiator components,* between Dunkirk, NY, and Zanesville, OH. Supporting shipper: Dunkirk Radiator Corp., 85 Middle Road, Dunkirk, NY 14048.

The following applications were filed in Region 2. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 151597 (Sub-II-1TA), filed August 19, 1980. Applicant: K & K CARTAGE CO., INC., 2725 Boston St., Baltimore, MD 21224. Representative: Eugene J. Daly, Jr., (same address as above). *Waste and scrap metal* between Baltimore County, MD, on the one hand, and, on the other, Allegheny County, PA, for 270 days. An underlying ETA seeks 120 days authority. Supporting

shipper(s): Vulcan Materials Co., Metals Division, P.O.B. 7588, Birmingham, AL 35253.

MC 136528 (Sub-II-1TA), filed August 15, 1980. Applicant: GREAT NORTHEASTERN, INC., P.O. Box 115, Blue Ball, PA 17506. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. *Farm, dairy, and water treatment equipment, materials and supplies, cleaning products, paint and pesticides* (except commodities in bulk and those which because of size or weight require the use of special equipment), from the facilities of Babson Bros. Co. at or near Osceola, IA to points in the US (except AK and HI), restricted to transportation to be performed under a continuing contract with Babson Bros. Co. of Oak Brook IL. An underlying ETA seeks 120 days authority. Supporting shipper(s): Babson Bros. Co., 2100 S. York Rd., Oak Brook, IL 60521.

MC 149351 (Sub-II-2TA), filed August 15, 1980. Applicant: HEYMAN TRUCKING, INC., Box 97, 212 Mulberry St., Stephens City, VA 22655. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. Contract; irregular: *Plastic articles,* from Winchester, VA, and its commercial zone to points in TN, for 270 days. An underlying ETA sees 120 days authority. Supporting shipper: Rubbermaid Commercial Products, Inc., 3124 Valley Avenue, Winchester, VA 22601.

MC 150939 (Sub-II-5TA), filed August 15, 1980. Applicant: GEMINI TRUCKING, INC., 1533 Broad St., Greensburg, PA 15601. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. *General commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the US for 180 days, under continuing contracts with Celanese Fibers Company, Fiber Industries, Inc. and Pama Manufacturing Company, of Charlotte, NC and Celanese Fibers Marketing Company, Amcel Company, and Pan Amcel Company of New York, NY. Supporting shipper(s): Celanese Fibers Company, Celanese Fibers Marketing Company, Fiber Industries, Inc., Amcel Company, Pan Amcel Company, Pama Manufacturing Company, Box 32414, Charlotte, NC 28232.

MC 13134 (Sub-II-12TA), filed August 15, 1980. Applicant: GRANT TRUCKING, INC., P.O. Box 256, Oak Hill, OH 45656. Representative: James M. Burtch, Baker & Hostetler, 100 E. Broad St., Columbus, OH 43215. *Refractories and materials, equipment and supplies used in the manufacture and shipment thereof,* between points in the U.S. in and east of ND, SD, NE, KS, OK and TX. Restricted to shipments originating at and/or destined to the facilities of KEK Refractories, Inc., for 270 days. Supporting shipper: KEK Refractories, Inc., POB 16253, Pittsburgh, PA 15232.

MC 48948 (Sub-II-1TA), filed August 18, 1980. Applicant: THE HOCKING CARTAGE COMPANY, 28424 Chieftain Dr., Logan, OH 43138. Representative: James Duvall, P.O.B. 97, 220 W. Bridge St., Dublin, OH 43017. *Gas vent pipe and fittings and chimney assemblies and fittings and materials, equipment and supplies used in the manufacture, sale and distribution of the named commodities,* between the facilities of Metalbestos Systems, Division of Wallace-Murray Corporation, at or near Logan, OH, on the one hand, and, on the other, points in the US. An underlying ETA seeks 120 days authority. Supporting shipper(s): Metalbestos Systems, Division of Wallace-Murray Corporation, P.O.D. 957, Logan, OH 43138.

MC 59909 (Sub-II-1TA), filed August 18, 1980. Applicant: JACOBS TRANSFER, INC., 2300 Beaver Road, Landover, MD 20785. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW., Washington, DC 20005. *General commodities (except those of unusual value, classes A&B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* between Arlington, VA, and points in its commercial zone, on the one hand, and, on the other, points in VA, MD, WV, DE, DC, PA and NJ. Supporting shipper: There are six supporting shippers to this application. Their statements may be examined at the Philadelphia office of the ICC upon request.

MC 14111 (Sub-II-2TA), filed August 18, 1980. Applicant: GENERAL COMMODITIES WAREHOUSE & DISTRIBUTING CO., INC., 39th St. Pittsburgh, PA 15201. Representative: Thomas M. Mulroy, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. *Contract Carrier, Irregular Route: Insecticides, Herbicides, Pesticides, Fertilizer, and Agricultural Chemicals* (except in bulk) and applicators thereof, between points in Lebanon County, PA, on the one hand, and, on the other, points in NY, NJ, DE, MD, WV, and VA. Supporting shipper: Chevron Chemical Company, 1200 State Street, Perth Amboy, NJ 08861.

MC 151588 (Sub-II-1TA), filed August 18, 1980. Applicant: THE KAPLAN TRUCKING COMPANY, 6600 Bessemer Ave., Cleveland, OH 44127. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. *Contract; irregular: Cleaning compounds, adhesives, caulking compounds, paints, wood fillers, hand tools, store display racks, and materials and supplies used in the manufacture and distribution thereof* (except commodities in bulk), between points in Cuyahoga County, OH; Louisville, KY; City of Industry, CA; and Kansas City, KS, on the one hand, and, on the other, points in the US (except AK and HI) for 270 days under continuing contract(s) with Woodhill Permatex, Inc. An underlying ETA seeks 120 days authority. Restricted to traffic originating at or destined to the facilities of Woodhill Permatex, Inc., a Division of Loctite, Inc. Supporting shipper: Woodhill Permatex, Inc., a Division of Loctite, Inc., 18731 Cranwood Pkwy, Cleveland, OH 44128.

MC 151484 (Sub-II-1TA), filed August 19, 1980. Applicant: KATHRYN L. LEITH, Inc., P.O. Box 132, Coopersburg, PA 18036. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Phila., PA 19107. *Zinc ore concentrates, in dump vehicles,* from Upper Saucon Township, PA to pts in the Philadelphia Commercial Zone for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Gulf & Western Industries, Inc., N.J. Zinc Division, 2200 First American Center, Nashville, TN 37238.

MC 151440 (Sub-II-1TA), filed August 18, 1980. Applicant: EDWARD A. FISHER, JR., d.b.a. FISHER COMMUTER EXPRESS, 709 Harvey Rd., Wallingford, PA 19086. Representative: John A. Saling, 15 S. Church St., West Chester, PA 19380. (1) *Passengers and their baggage in the same vehicle with passengers for special and charter operations,* between points in Delaware County, PA and New Castle County, DE, on the one hand, and, on the other, Atlantic City, NJ and (2) *Passengers requiring medical treatment in vehicles equipped with ramps and wheelchair tie-downs for the handicapped,* between Delaware and Chester Counties, PA, on the one hand, and, on the other, New Castle County, DE. An underlying ETA seeks 120 days authority. Supporting shipper(s): Airport Ramada Inn, 76 Industrial Hwy., Essington, PA 19029. Chadds Ford Ramada Inn, Routes 202 & L, Box 140, RD#2, Glen Mills, PA 19342 Social Services Transportation Unit, Delaware County Board of Assistance 7th & Sproul St., Chester, PA 19013.

MC 109533 (Sub-II-9TA), filed August 19, 1980. Applicant: OVERNITE TRANSPORTATION CO., 1000 Semmes

Ave., Richmond, VA 23224. Representative: John C. Burton, Jr. (same as applicant). *Common; regular: General comodities (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* serving Osceola, AR as an off route point, in connection with carrier's authorized regular route operation for 270 days. Applicant intends to tack authority sought herein with authority presently held under MC-109533. Applicant proposes to interline traffic with present connecting carriers at authorized interline points, as provided in tariffs on file with the ICC. An underlying ETA seeks 120 days authority. Supporting shipper(s): American Greeting Corp. 10500 American Rd. Cleveland, OH 44144.

MC 138197 (Sub-II-2TA), filed August 20, 1980. Applicant: L. SURRATT TRUCKING, INC., 7900 Old Rockside Rd., Cleveland, OH 44131. Representative: Earl N. Merwin, 85 E. Gay St., Columbus, OH 43215. Contract carrier: irregular routes: *(1) Prefabricated masonry panels, and (2) equipment, machinery, materials, and supplies used in the manufacturing of the commodities in (1) above,* between Brunswick, OH, on the one hand, and, on the other, points in NJ and MD under continuing contract(s) with Vetovitz Bros., Inc., of Brunswick, OH for 270 days. Supporting shipper: Vetovitz Bros., Inc., 2786 Center Street, Brunswick, OH 44212.

MC 107012 (Sub-II-76TA), filed August 20, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Water trays and drums for humidifiers,* from the facilities of Lamar Plastics at Sterling Heights, MI to the facilities of Toastmaster, Inc. at Kirksville, MO for 270 days. An underlying ETA seeks authority for 120 days. Supporting shipper: Toastmaster, Inc., 1801 North Stadium Blvd., Columbus, MO 65201.

Note.—Common control may be involved.

MC 150339 (Sub-2-9TA), filed August 20, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same as applicant). *Contract; irregular: Lawn and garden commodities (except commodities in bulk),* between Columbus and Marysville, OH on the one hand, and, on the other, points in the US (except AK and HI), for 270 days, under a continuing contract with O. M. Scott and Sons Co., 333 N. Maple St., Marysville, OH 43040. An underlying ETA seeks authority for 120 days. Supporting shipper(s): O. M. Scott and Sons Co., 333 N. Maple St., Marysville, OH 43040.

MC 151599 (Sub-II-1TA), filed August 20, 1980. Applicant: J. L. McCOY, INC., P.O. BOX 525, Ravenswood, WV 26164. Representative: Ronald N. Cobert, Suite 501, 1730 M Street, NW, Washington, DC 20036. *Contract; irregular: General Commodities (except household goods as dinfed by the Commission, and Classes A and B explosives),* between points in the US in and east of MN, IA, MO, AR, and TX, for 270 days, under continuing contract with Kaiser Aluminum & Chemical Corp. Supporting shipper: Kaiser Aluminum & Chemical Corp., P.O. Box 98, Ravenswood, WV 26164.

MC 151561 (Sub-II-1TA), filed August 20, 1980. Applicant: PARCEL EXPRESS, INC. P.O. Box 1014, Hagerstown, MD 21740. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. *Contract; irregular: Such commodities as are dealt in or used by cosmetic manufacturers,* between Newark, DE, and points in Allegany, Garrett and Washington Counties, MD; Bedford, Fulton, Somerset, Blair, Huntingdon, Mifflin, and Juniata Counties, PA; Clarke, Frederick, Page, Shenandoah, and Warren Counties, VA; and Barbour, Berkeley, Calhoun, Doddridge, Gilmer, Grant, Hampshire, Hardy, Harrison, Jefferson, Lewis, Marion, Mineral, Monongalia, Morgan, Pendleton, Pleasants, Preston, Randolph, Ritchie, Taylor, Tucker, Upshur, Wirt, and Wood Counties, WV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Avon Products, Inc., 2100 Ogletown Rd., Newark, DE 19711.

MC 150339 (Sub-2-8TA), filed August 20, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same as applicant). *Contract; irregular. Plastic articles,* from Reading, PA, and Indianapolis, IN, to points in AL, AR, CT, FL, GA, IL, IN, KY, MA, MD, MI, MS, MO, NJ, NY, NC, OH, PA, RI, SC, TN, VA, WV, and WI, for 270 days, under a continuing contract with W. R. Grace & Co., P.O. Box 295, Reading, PA 19603. An underlying ETA seeks 120 days authority. Supporting shipper(s): W. R. Grace & Co., P.O. Box 295, Reading, PA 19603.

MC 105886 (Sub-II-2TA), filed August 20, 1980. Applicant: MARTIN TRUCKING, INC., East Poland Ave., Bessemer, PA 16112. Representative: Henry W. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. *Cement,* from Wampum, Lawrence County, PA to pts. in the lower peninsula of MI for 270 days. Supporting shipper: Medusa Cement Co., P.O. Box 5668, Cleveland Heights, OH 44101.

MC 119632 (Sub-II-13TA), filed August 14, 1980. Applicant: REED LINES, INC., 634 Ralston Avenue, Defiance, OH 43512. Representative: Wayne C. Pence (same as applicant). *Such commodities as are dealt in by food business houses* (except frozen or in bulk), between points in the east of MN, IA, MO, AR and LA. Restricted to transportation of commodities originating at or destined to facilities of Pilgrim Farms, Inc. Supporting shipper: Pilgrim Farms, Inc., 1430 Western Ave., Plymouth, IN 46563.

MC 2232 (Sub-II-2TA), filed August 21, 1980. Applicant: CREGER FREIGHT LINES, INC., Old Tyburn Rd. & Corbin Lane, Morrisville, PA 19067. Representative: Bernard J. Kompare, Sullivan & Associates, Ltd., Suite 1600, 10 S. LaSalle St., Chicago, IL 60603. *Such commodities as are dealt in or used by manufacturers or distributors of foodstuffs (except in bulk),* (1) from the facilities of Nabisco, Inc. located at Fairlawn, NJ; Pittsburgh, PA; Richmond, VA; and Buffalo and Niagara Falls, NY, to the facilities of Nabisco, Inc. located in Chicago, IL and its commercial zone; and (2) from Marseilles, IL and the facilities of Nabisco, Inc. located in Chicago, IL and its commercial zone to the facilities of Nabisco, Inc. located in CT, MD, NJ, NY, OH, PA, RI, VA and WA, restricted in (1) and (2) to traffic originating at the origins above or destined to the destinations above. Supporting shipper: Nabisco, Inc., East Hanover, NJ 07936.

MC 144602 (Sub-II-1TA), filed August 21, 1980. Applicant: VINCENT F. GIBSON, d.b.a. CONTINENTAL LIMOUSINE SERVICES, INC., 1137 N. Highland St., Suite 3, Arlington, VA 22201. Representative: Rotan E. Lee, 1700 K. St., NW., Washington, DC 20006. *Passengers and their baggage in the same vehicles with passengers limited to prospective recruits in the U.S. armed forces and military personnel enroute to the Recruitment Testing Center in possession of tickets issued by the Armed Forces authorizing them to utilize said transportation,* from the Armed Forces Recruiting office in Winchester (Frederick County), VA, and Martinsburg (Berkeley County), WV on the one hand at Armed Forces Testing Center at Linthicum Heights, MD, on the other, for 270 days. Applicant intends to tack. Supporting shipper: U.S. Army Recruiter, Area Hdgs., Frederick Mall, Frederick, MD 21701.

MC 59957 (Sub-II–4TA), filed August 19, 1980. Applicant: MOTOR FREIGHT EXPRESS, P.O. Box 1029, York, PA 17405. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. *Common: Regular: General commodities, except those of unusual value, and except dangerous explosives, household goods, livestock, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading.* (1) Between St. Louis, MO and Joliet, IL: From St. Louis over U.S. Hwy 66 to Joliet, and return over the same route, serving all intermediate points, and the off-route point of Petersburg, IL. (2) Between Effingham, IL and Chicago, IL: From Effingham over U.S. Hwy 45 to Chicago, and return over the same route, serving all intermediate points, and the off-route point of Sycamore, IL. (3) Between Springfield, IL and Mattoon, IL: From Springfield over U.S. Hwy 36 to Decatur, IL, then over IL Hwy 121 to Mattoon, and return over the same route, serving all intermediate points. (4) Between Pittsburgh, PA and St. Louis, MO: From Pittsburgh over U.S. Hwy 19 to Washington, PA, then over U.S. Hwy 40 to St. Louis, and return over the same route, serving all intermediate points. (5) Between Columbus, OH and St. Louis, MO: From Columbus over U.S. Hwy 40 to Lafayette, OH, then over U.S. Hwy 42 to Louisville, KY, then over KY Hwy 56 to junction IL Hwy 13, then over IL Hwy 13 to St. Louis, MO, and return over the same route, serving all intermediate points, and the off-route point of Cobden, IL. (6) Between Joliet, IL and Springfield, IL: From Joliet over U.S. Hwy 6 to Peru, IL, then over IL Hwy 29 to Springfield, and return over the same route, serving all intermediate points. (7) Between Fort Wayne, IN and Peoria, IL: From Fort Wayne over U.S. Hwy 24 to Peoria, and return over the same route, serving all intermediate points. (8) Between Chicago, IL and Henderson, KY: From Chicago over U.S. Hwy 41 to Henderson, and return over the same route, serving all intermediate points. (9) Between Chicago, IL and Louisville, KY: From Chicago over U.S. Hwy 41 to junction U.S. Hwy 52, then over U.S. Hwy 52 to Indianapolis, IN, then over U.S. Hwy 31 to Louisville, and return over the same route, serving all intermediate points. (10) Between Indianapolis, IN and Cincinnati, OH: From Indianapolis over U.S. Hwy 52 to Cincinnati, and return over the same route, serving all intermediate points. (11) Between Indianapolis, IN and South Bend, IN: From Indianapolis over U.S. Hwy 31 to South Bend, and return over the same route, serving all intermediate points. (12) Between Peoria, IL and Indianapolis, IN: From Peoria over U.S. Hwy 150 to Danville, IL, then over U.S. Hwy 136 to Indianapolis, and return over the same route, serving all intermediate points. (13) Between Fort Wayne, IN and Richmond, IN: From Fort Wayne over U.S. Hwy 27 to Richmond, and return over the same route, serving all intermediate points, and the off-route points of Butler, Kendallville, Garrett, Auburn, and Bluffton, IN. (14) Between Fort Wayne, IN and Vincennes, IN, serving all intermediate points: a.) From Fort Wayne, IN over IN Hwy 37 to junction IN Hwy 46, then over IN Hwy 46 to Spencer, IN, then over U.S. Hwy 231 to junction IN Hwy 67, then over IN Hwy 67 to Vincennes, and return over the same route; b.) From Fort Wayne, IN over IN Hwy 1 to junction IN Hwy 67, then over IN Hwy 67 to Vincennes, and return over the same route. (15) Between Vincennes, IN and Henderson, KY: From Vincennes over U.S. Hwy 41 to Henderson, and return over the same route, serving all intermediate points for 270 days. Applicant intends to tack the authority sought here with all of its existing authority. Applicant intends to interline at all of its thirty-eight (38) terminal locations. Applicant intends to provide service to and from the Commercial Zones of all authorized points. An underlying ETA seeks 120 days authority. Supporting shipper(s): There are 65 statements in support attached to the application at MC 59957 (Sub-II–3TA) which may be examined at the I.C.C. Regional Office in Philadelphia, PA.

Note.—Applicant presently holds all of the above authority except the authority to serve the Commercial Zones of all authorized points. The purpose of this application is to supplement the authority held at MC–59957 (Sub-II–3TA) by seeking the right to provide service to and from the Commercial Zones of all authorized points.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 200 (Sub-5–42TA), filed August 25, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis, (same address as applicant). *Containers, container closures, packaging products, container components, scrap material, and materials, equipment, and supplies used in the manufacture, sales, and distribution thereof (Except commodities in bulk),* between Hunterdon & Monmouth Counties, NJ; Nelson County, KY; Greene County, MO; Richmond County, GA; Riverside County, CA; Lucas County, OH; and Penobscot County, ME, on the one hand, and, on the other, points and places in the United States. Supporting shipper: Lily Division of Owens-Illinois, P.O. Box 1035, Toledo, OH 43666.

MC 61231 (Sub-5–3TA), filed August 25, 1980. Applicant: EASTER ENTERPRISES, INC., d.b.a. Ace Lines, Inc., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *(1) Tires, tire tubes, tire valves, wheels and wheel weights, and (2) materials, equipment and supplies used in the distribution of the commodities in (1),* (a) between Des Moines IA, on the one hand, and, on the other, points in AR, LA, KY, MS, NM, OH, and WY, and (b) From points in AZ, CO, IL, IN, KS, MI, MN, MO, MT, ND, NE, OK, SD, TN, TX, and WI to Des Moines, IA. Supporting shipper: The Armstrong Rubber Company, 2323 East Market Street, P.O. Box 1616, Des Moines, IA 50317.

MC 61231 (Sub-5–4TA), filed August 25, 1980. Applicant: EASTER ENTERPRISES, INC., d.b.a. Ace Lines, Inc., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Paint, paint products, solvents, cleaning compounds, varnishes and resins,* from Ft. Wayne, IN, to Omaha, NE. Supporting shipper: Valspar Corporation, 1101 South 3rd Street, Minneapolis, MN 55415.

MC 64189 (Sub-5–1TA), filed August 25, 1980. Applicant: TOPLIFF TRUCK LINE, INC., 746 North Santa Fe, Salina, KS 67401. Representative: Paul V. Dugan, 2707 West Douglas, Wichita, KS. 67213. *Beer, cereal malt beverages, empty drums, barrels, and shipping containers* between St. Louis, MO. and Salina, KS. Supporting shipper: Vidricksen Distributing Co. Inc., 2231 Centennial Road, Salina, KS 67401.

MC 97825 (Sub-5–1TA), filed August 25, 1980. Applicant: LOUISIANA MIDLAND TRANSPORT CO., INC., 3679 Florida Boulevard, Baton Rouge, Louisiana 70806. Representative: Carlos G. Spaht, P.O. Box 2997, 500 Laurel Street, Baton Rouge, Louisiana 70821. *Fly ash, in bulk, in tank vehicles,* between points in MS, LA, and TX, restricted to movements for the account of Gifford-Hill & Co., Inc., Dallas, Texas. Supporting shipper: Gifford-Hill & Co., Inc., P.O. Box 225688, Dallas, TX, 75265.

MC 99149 (Sub-5–2TA), filed August 25, 1980. Applicant: MIDWAY MOTOR FREIGHT LINES, INC., P.O. Box 9390, Little Rock, AR 72219. Representative: Charles J. Lincoln, II, 1550 Tower

Building, Little Rock, AR 72201. *General Commodities (except those of unusual value, Classes A & B Explosives, household goods as described by the Commission, commodities in bulk, and those requiring special equipment).* Between the facilities of Cooper-Tire & Rubber Company in Texarkana, AR, on the one hand, and, on the other, points and places in the States of TX, LA and OK. Supporting shipper: Cooper Tire & Rubber Company, P.O. Box 550, Findlay, OH.

MC 105566 (Sub-5–12TA), filed August 25, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. *Heating and cooling equipment and parts for such equipment;* and *materials, supplies and equipment used in the manufacture thereof* (1) Between Elyria, OH and points in the United States, except AK, AZ, CA, CO, HI, ID, MT, NV, NM, OR, UT, WA and WY; and (2) Between Medina, OH and points in the United States, except AK, AZ, CA, HI, ID, MT, NV, ND, OR, SD, WA and WY. Supporting shippers: Luxaire, Inc., Filbert Street, Elyria, OH 44036. SJC Corporation, 206 Woodford Avenue, Elyria, OH 44036.

MC 108207 (Sub-5–31TA), filed August 25, 1980. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same address as applicant). *Non-exempt food and kindred products, in mechanically refrigerated equipment,* from Dallas and El Paso, TX to points in the Continental U.S. Supporting shipper: Bruce Foods Corporation, P.O. Drawer 1030, New Iberia, LA 70560.

MC 111401 (Sub-5–12TA), filed August 20, 1980. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock, Vice President, Traffic (same as applicant). *Lubricating oil, in bulk, in tank vehicles,* from Kansas City, KS to points in FL. Supporting shipper: Phillips Petroleum Co., 734 Adams Bldg., Bartlesville, OK, 74004.

MC 111401 (Sub-5–13TA), filed 8–25–80. Applicant: GROENDYKE TRANSPORT, INC. P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock, Vice President, Traffic (same as applicant). *Inedible Vegetable Oil, in bulk, in tank vehicles,* from Fort Worth, TX to Brownsville, TX, in foreign commerce only. Supporting shipper: Wommack International, Inc., P.O. Box 4247, Fort Worth, TX, 76106.

MC 111651 (Sub-5–1TA), filed 8–25–80. Applicant: MIDDLEWEST FREIGHTWAYS, INC., 6810 Prescott Ave., St. Louis, MO 63147. Representative: Patricia F. Scott, Kretsinger & Kretsinger, 20 East Franklin, Liberty, MO 64068. Common, regular, *General Commodities,* between Kansas City, MO and Hutchinson, KS, serving all intermediate points, from Kansas City over I–70 and the KS Turnpike to junction U.S. Hwy. 50, then over U.S. Hwy. 50 to junction KS Hwy. 150, then over KS Hwy. 150 to U.S. Hwy. 56, then over U.S. Hwy. 56 to junction KS Hwy. 61, then over KS Hwy. 61 to Hutchinson, and return over the same route, between Hutchinson, KS and Wichita, KS, serving all intermediate points, from Hutchinson, over KS Hwy 96 to Whichita, and return over the same route, between Hutchinson, KS and Newton, KS, serving all intermediate points, from Hutchinson over U.S. Hwy. 50 to Newton, and return over the same route, and between Newton, KS and McPherson, KS, serving all intermediate points, from Newton over I–35W to McPherson, and return over the same route. Supporting shippers: 60 shippers are supporting this application.

MC 117119 (Sub-5–27TA), filed August 25, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Meats, meat products, and articles distributed by meat packinghouses (except commodities in bulk and hides)* from Palestine, TX to points in AL, AZ, AR, CA, CO GA, IL IN, IA, KS, KY, MS, MI, MN, MO, NY, NJ, NM, NC, NE, OH, OK, PA, SC, TN, WI, UT and WA. Supporting shipper(s): Vernon Calhoun Packing Co., P.O. Box 709, Palestine, TX 75801.

MC 117119 (Sub-5–28TA), filed August 25, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). (1) *wrappings and containers;* (2) *florist articles and florist materials;* (3) *plastic articles and plastic materials;* (4) *adhesives and chemicals;* (5) *aluminum foil and aluminum materials;* (6) *shredded paper and cellophane;* (7) *materials, supplies, and equipment used in the manufacture, sale, and distribution of the commodities in (1) through (6) above* between points in the U.S. (except AK and HI). Supporting shipper(s): Highland Supply Corporation, Highland Manufacturing & Sales Co., 1111—6th Street Highland, IL 62249.

MC 117686 (Sub-5–3TA), filed August 25, 1980. Applicant: HIRSCHBACH MOTOR LINES, INC., 920 West 21st Street, South Sioux City, NE 68776. Representative: George L. Hirschbach, 920 West 21st Street, South Sioux City, NE 68776. *Floor coverings, and materials, equipment and supplies used in the installation, manufacture, packaging and sale of floor coverings* (1) between Lyerly, GA; Belton, Calhoun Falls, Greenville and Landrum, SC and points in AZ, CA, NV, NM, OR, UT and WA, and (2) Between Sparks, NV, and CA, OR and WA. Supporting shipper: Bigelow-Sanford, Inc., P.O. Box 3089, Greenville, SC 29602.

MC 117765 (Sub-5–14TA), filed Aug. 20, 1980. Applicant: HAHN TRUCK LINE, INC., P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same as applicant). *Flour (except in bulk),* From Blaine County, OK to TX. Supporting shipper: Okeene Milling Co., P.O. Drawer D, Okeene, OK 73763.

MC 119493 (Sub-5–40TA), filed Aug. 25, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, Traffic Manager, Monkem Company, Inc., P.O. Box 1196, Joplin, MO 64801. *Metal, metal articals, and materials and supplies used in the manufacture and distribution thereof (except in bulk)* between: points in KS and IL, on the one hand, and: points, in AL, AR, CO, IA, IL, IN,KS, KY, MS, MN, NE, OH, OK, TN, TX, and WI, on the other hand. Supporting shipper: Quentin Robinson, Corporate Traffic Manager, Tower Metal Products, 301 N. Hill Street, P.O. Box 791, Ft. Scott, KS 66701.

MC 119789 (Sub-5–31TA), filed Aug. 25, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same as applicant). *Materials, supplies, and equipment used in the production and distribution of Cooking Oil* from points in the U.S. (except AK and HI) to Opelousas, LA. Supporting shipper: Louana Foods, Inc., P.O. Box 591, Opelousas, LA 70570.

MC 119789 (Sub-5–33TA), filed Aug. 25, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same as applicant). *Mechanical cooling and heating apparatus (except commodities which because of size and weight require the use of special equipment)* from New Orleans, LA and Mobile, AL to TX, AR, and OK. Supporting shipper: Convoy Servicing Company, 3020 S. Haskell, Dallas, TX 75266.

MC 123584 (Sub-5-1TA), filed Aug. 25, 1980. Applicant: JET TRANSPORT CO., 1400 6th Street S.W., Cedar Rapids, IA 52406. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Denatured alcohol, in bulk,* From the facilities of ADM Co. at or near Decatur, IL, to points in Linn and Iowa Counties, IA. Supporting shipper: Nordstrom Oil Company, P.O. Box 66, Cedar Rapids, IA 52406.

MC 123993 (Sub-5-23TA), filed August 25, 1980. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Byron Fogleman, P.O. Box 1504, Crowley, LA 70526. *Canned foods* between Milton, LA, on the one hand, and on the other, points in AL, AR, FL, GA, KY, LA, MS, NC, SC and TX. Supporting shipper: Dixie Canning Company, P.O. Box 278, Milton, LA 70558.

MC 124813 (Sub-5-18TA), filed August 25, 1980. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, Eagle Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Steel articles,* from points in IL, IN and MO to Muscatine, IA. Supporting shipper: Hon Company, Division of Hon Industries, 200 Oak Street, Muscatine, IA 52761.

MC 125254 (Sub-5-6TA), filed August 25, 1980. Applicant: MORGAN TRUCKING CO., P.O. Box 714, Muscatine, IA 52761. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Wood products,* (1) from St. Joseph, MO, to points in IA, IL, IN, MN, WI, NE, KS, MI, OH, and KY; and (2) from Muscatine, IA, to points in MO, IL, IN, MN, WI, NE, KS, MI, OH, and KY. Supporting shipper: 4-Seasons, Inc., R.R. No. 6, Box 159, Muscatine, IA 52761.

MC 126045 (Sub-5-3TA), filed August 25, 1980. Applicant: ALTER TRUCKING AND TERMINAL CORPORATION, P.O. Box 3122, Davenport, IA 52808. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Iron and steel articles,* from the St. Louis, MO-East St. Louis, IL Commercial Zone to points in IA, MN and MO. Supporting shipper: Piper Industries Steel Service Div., 9 Fox Industrial Park, Madison, IL.

MC 126118 (Sub-5-25TA), filed August 25, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. *Such commodities as are dealt in and used by wholesale grocery and general merchandise stores (except in bulk),* from points in the United States (except AK and HI) to Norfolk, NE. Supporting shipper: Affiliated Foods Cooperative, Inc., Virgil L. Froehlich, General Manager, South 13th Street, Box 1067, Norfolk, NE 68701.

MC 128273 (Sub-5-23TA), filed August 25, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban, P.O. Box 189, Fort Scott, KS 66701. *Wine, distilled spirits and related products,* from Westfield, NY, to all points in the United States (except AK and HI). Supporting shipper: Mogen David Wine Corp., 35 Bourne Street, P.O. Box I, Westfield, NY 14787.

MC 128273 (Sub-5-24TA), filed August 25, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban, P.O. Box 189, Fort Scott, KS 66701. *Foodstuffs and related products,* between El Paso, TX, Wilson, NC, and all points in the State of Louisiana, on the one hand, and, on the other, points in the United Stats (except AK and HI. Supporting shippers: Bruce Foods Corporation, P.O. Drawer 1030, New Iberia, LA 70560, B. F. Trappery's Sons, Inc., 900 East Main Street, New Iberia, LA 70560 and A & A Spice & Food Co., Inc., 2801 Arts Street, New Orleans, LA 70122.

MC 128273 (Sub-5-25TA), filed August 25, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban, P.O. Box 189, Fort Scott, KS 66701. *General commodities (except commodities in bulk, in tank vehicles, and commodities which, because of size or weight require the use of special equipment, and except Class A and B explosives, and household goods as defined by the Commission),* from Los Angeles County, CA, to points in the United States (except AK and HI). Restricted to traffic which originates at the facilities of Plasta-Medic and/or Weider Health and Fitness. Supporting shippers: Plasta-Medic, 1165 E. 230th Street, Carson, CA 90745 and Weider Health and Fitness, 21100 Erwin Street, Woodland Hills, CA 91367.

MC 128273 (Sub-5-26TA), filed August 25, 1980. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban, P.O. Box 189, Fort Scott, KS 66701. Part (1) *Electrical appliances, electrical motors, household stools, kitchen chairs, lawn care products, home care products, personal care products, barbeque equipment, and recreational equipment, and materials, equipment and supplies used in the manufacture and distribution of the above described commodities* between the facilities of Neosho Products Company, Division of Sunbeam Corporation, located at or near Neosho, MO, on the one hand, and, on the other, points in the United States in and west of ND, SD, IA, MO, AR and LA (except AK and HI), and Part (2) *Materials, equipment and supplies used in the manufacture and distribution of the commodities listed in (1) above,* from points in the United States in and east of MN, WI, IL, KY, TN and MS, to the facilities of Neosho Products Company, Division of Sunbeam Corporation at or near Neosho, MO. Supporting shipper: Neosho Products Co., P.O. Box 622, Neosho, MO 64850.

MC 140635 (Sub-5-5TA), filed August 25, 1980. Applicant: ADAMS LINES, INC., 2619 N Street, Omaha, NE 68107. Representative: John L. Hornung, 2619 N Street, Omaha, NE 68107. *Boots and shoes, and boot and shoe factory materials, supplies and equipment (except commodities in bulk),* (1) From Brockton, MA to the facilities of Florsheim Shoe Co. at Chicago, IL, and (2) From Westfield, PA and Durbin, WV to the facilities utilized by Florsheim Shoe Co. at Cape Girardeau, MO. Supporting shipper: Florsheim Shoe Co., Div. Interco, Inc., 130 South Canal Street, Chicago, IL 60606.

MC 141108 (Sub-5-4TA), filed August 25, 1980. Applicant: D & C EXPRESS, INC., P.O. Box 746, Wilton, IA 52778. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *(1) Shafting, Bearings, Bushings and Conveyor Belt Pulleys, (2) Materials, Equipment and Supplies used in the manufacture, sale and distribution of Part (1) above,* Between Muscatine, IA, on the one hand, and, on the other, points in CO, IL, IN, KS, MI, MN, MO, NE, OH, PA, WV and WI. Supporting Shipper: R. J. Dick, Inc., 912 E. Fifth St., Muscatine, IA 52761.

MC 141641 (Sub-5-1TA), filed August 25, 1980. Applicant: WILSON CERTIFIED EXPRESS, INC., P.O. Box 3326, Des Moines, IA 50316. Representative: Greg A. Dickinson, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Retail store fixtures, and equipment, materials and supplies used in the manufacture thereof,* between points in Douglas County, NE; Jackson County, AL; Snyder County, PA; and San Bernardino County, CA; on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Lozier Store Fixtures, Inc., 4401 North 21st Street, Omaha, NE 68110.

MC 142508 (Sub-5-37TA), filed August 25, 1980. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, Omaha, NE 68137.

Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Abrasive Grain and crude (except in bulk) including aluminum oxide and silicon carbide* between Buffalo and Niagara Falls, NY and points in the contiguous United States. Supporting shipper: General Abrasive, Div. of Dresser Ind., 2000 College Ave., Niagara Falls, NY 14305.

MC 142508 (Sub-5–38), filed August 25, 1980. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Meat and meat products* between Omaha, NE, and points in the contiguous United States. Supporting shipper: Mann's International, 9097 F Street, Omaha, NE 68127.

MC 147552 (Sub-5–3TA), filed August 25, 1980. Applicant: CAJUN CARTAGE & WAREHOUSING CORP., P.O. Box 50262, New Orleans, LA 70150. Representative: Donald A. Larousse, P.O. Box 50262, New Orleans, LA 70150. *General commodities, (except household goods as defined by the Commission, and classes A and B explosives),* between St. John Parish and Orleans Parish, LA. Restricted to traffic having a prior or subsequent movement by rail or water. Supporting shipper: Godchaux Sugar Co., Inc., P.O. Drawer AM, Reserve, LA 70084.

MC 148444 (Sub-5–3TA), filed August 25, 1980. Applicant: RAHMEIER TRUCKING, INC., Box 283, Salina, KS 67401. Representative: Paul V. Dugan, 2707 West Douglas, Wichita, KS 67213. Contract; Irregular: *Agricultural implements, equipment, and those items, parts or portions thereof; tools, materials, equipment, supplies, and machinery used in the manufacture, assembly, repair, distribution, sale and transport thereof,* from the plant facilities of Great Plains Manufacturing Incorporated at Assaria & Kipp, Kansas, on the one hand; and all points and places in the U.S., except AK and HI, on the other. Supporting shipper: Great Plains Manufacturing Incorporated, Box 218, Assaria, KS 67416.

MC 148919 (Sub-5–3TA), filed August 25, 1980. Applicant: HEARTLAND EXPRESS, INC., P.O. Box 129, St. Clair, MO 63077. Representative: Richard Howard, P.O. Box 129, St. Clair, MO 63077. *Containers, container closures, glassware, packaging products, container components and scrap materials, and materials, equipment and supplies used in the manufacture, sale, and distribution of the foregoing commodities (except commodities in bulk).* Between Henryetta, OK and points in TX. (Restricted to shipments originating at or destined to facilities of Midland Glass Co.). Supporting shipper: Midland Glass Co. Inc., P.O. Box 557, Cliffwood, NJ 07721.

MC 149173 (Sub-5–2TA), filed August 25, 1980. Applicant: NATIONAL EXPRESS, INC., 8138 Balson Ave., St. Louis, MO 63130. Representative: Clarence E. Scott, (same address as applicant). *Such commodities as are dealt in and distributed by grocery, hardware, and drug stores; cleaning and building maintenance materials, and supplies; swimming pool, spa, and hot tub products; chemicals, materials, equipment, and supplies used in the manufacture, sale, and distribution of the commodities named above.* Between points in the United States (except Alaska and Hawaii). Restrictions: Restricted to traffic originating at or destined to the facilities used by Purex Corp. Further restricted against transportation of commodities in bulk. Supporting shipper: Purex Corp., 6901 McKissock, St. Louis, MO 63147.

MC 149199 (Sub-5–2TA), filed August 25, 1980. Applicant: O. R. MILLER, d.b.a., FRONTIER EXPRESS, 932 S.W. Second, Oklahoma City, OK 73102. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. *Plumbing fixtures and supplies,* between Oklahoma City, OK and Chickasha, OK, From Oklahoma City, OK via H. E. Bailey Turnpike to Chickasha, OK and return over the same route. Supporting shipper: Delta Faucet Co., Div. of Masce Corp. of IN, Hwy 47 West, Greensburg, IN 47240.

Note.—Applicant intends to tack and interline.

MC 150981 (Sub-5–2TA), filed August 25, 1980. Applicant: EDWARD L. PARKER, d.b.a., ED PARKER TRUCKING, Box 388, Monona, IA 52159. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. (1) *Butter,* (2) *cheese and cheese products,* and (3) *packing materials,* (1) from Sparta, WI, to Maquoketa, IA; (2) from Plymouth, WI, to Houston, TX; (3) from New London, WI, to St. Olaf, IA. Supporting shippers: Mississippi Valley Milk Producers Assn., P.O. Box 4493, Davenport, IA 52808, Flemming Foods Co., 2 Townsite Plaza, Topeka, KS 66601.

MC 151024 (Sub-5–3TA), filed Aug. 25, 1980. Applicant: VICO TRUCKING COMPANY, P.O. Box 45, Tickfaw, LA 70466. Representative: Fletcher W. Cochran, P.O. Box 741, Slidell, LA 70459. Contract: Irregular: *Lumber and Lumber Products* between the Louisiana Parishes of Red River, Tangipahoa and Winn, on the one hand, and on the other, the 48 states. Supporting shipper: Crown Zellerbach Corporation, P.O. Box 1060, Bogalusa, LA 70427.

MC 151637 (Sub-5–1TA), filed Aug. 25, 1980. Applicant: LARRY BREEDEN TRUCKING, INC., 1301 Fayetteville Road, Van Buren, AR 72956. Representative: Don Garrison, Esq., P.O. Box, Fayetteville, AR 72701. *Synthetic Fibre Wastes (in bales), and Nova Bond Pads*—From the facilities of Steiner-Liff Textile Products Company, Inc., at or near Nashville, TN—To points in AR, MO and MS. Supporting shipper: Steiner-Liff Textile Products Co., P.O. Box 1182, Nashville, TN 37202.

MC 151640 (Sub-5–1TA), filed Aug. 25, 1980. Applicant: LINDY LOTT WRECKER SERVICE INC., 11310 Plano Rd., Dallas, Texas 75243. Representative: W. Paul Lott (same address as applicant). *Wrecked or disabled vehicles (Tractors, Trailers, or Busses) loaded or empty,* From Dallas, TX, to points in OK, KS, LA, AR, TN, NM, IL, AZ. Supporting shipper: Ryder Truck Rental, Inc., 1231 S. Jupiter Rd., Garland, Texas 75042. Greyhound Bus Lines, 1100 S. Lamar St., Dallas, Texas 75215.

MC 151641 (Sub-5–1TA), filed Aug. 25, 1980. Applicant: WILLIAM E. JOHNSON d.b.a. WILLIAM E. JOHNSON TRUCKING COMPANY, 11211 Sherman Avenue, Dallas, Texas 75220. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, Texas 75245. *(1) (a) meat, cheese and bananas, and (b) agricultural commodities, the transportation of which is otherwise exempt from economic regulation under Section 10526(A)(6)(B) of the Interstate Commerce Act, when moving in mixed loads with the commodities named in (1)(a)* from Dallas County, TX to Albuquerque and Hobbs, NM, and Oklahoma City and Tulsa, OK; *(2) meat, meat byproducts, and articles distributed by meat packing houses as described in Sections A and C to Appendix 1 to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk, hides, skins, and pieces thereof)* from Liberal and Arkansas City, KS, to Dallas, TX. Supporting shipper(s): Skaggs Companies, Inc., 1100 Executive, Richardson, TX 75080.

MC 151643 (Sub-5–1TA), filed Aug. 25, 1980. Applicant: LO-HI TRANSPORTATION, INC., P.O. Box 661, Fremont, NE 68025. Representative: Scott E. Daniel, 800 Nebraska Savings Building, 1623 Farnam, Omaha, NE 68102. Contract, irregular *Household furniture and home furnishings* between

points in the United States. RESTRICTION: Restricted to a transportation service provided under a continuing contract or contracts with D & D Investment Co., Inc., d.b.a. Craftmatic Distributing. Supporting shipper(s): D & D Investment Co., Inc., d.b.a. Craftmatic Distributing.

MC 151644 (Sub-5-1TA), filed 8-25-80. Applicant: WILDCAT TRUCKING COMPANY, 6810 Dollarway Road, Pine Bluff, AR 71602. Representative: M. Douglas Wood, Attorney at Law, 2500 McCain Blvd., Suite 103, North Little Rock AR 72116. *Steel/iron tubing and metal products* from the facilities of Century Tube, Inc. at Pine Bluff, AR on the one hand and to and between points in the United States (except AK & HI). Supporting shipper: Century Tube, Inc., P.O. Box 7612, Pine Bluff, Arkansas 71611.

MC 151645 (Sub-5-1TA), filed 8-25-80. Applicant: K.S.R., Inc., Highway 25 East, Paragould, AR 72450. Representative: William W. Roswell (same address as applicant). *Fabricated metal products and primary metal products,* between Greene County, AR on the one hand, and on the other all points in the United States. Supporting shipper: Peerless Div., Lear Siegler, Inc., P.O. Box 760, Paragould, AR 72450.

MC 151645 (Sub-5-2TA), filed 8-25-80. Applicant: K.S.R., Inc., Highway 25 East, Paragould, AR 72450. Representative: William W. Roswell (same address as applicant). *Chemicals or allied products,* between Shelby County, TN, and Tunica County, MS on the one hand and on the other all points in the United States. Supporting shipper: Drexel Chemical Co., 2487 Penn St., P.O. Box 9306, Memphis, TN 38109.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-27075 Filed 9-3-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's rules of practice, see 49 CFR 1100.247. Special rule 247 was published in the Federal Register on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before October 20, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP4-02T

Decided: August 25, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 119777 (Sub-500F), filed August 21, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85 East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L" Madisonville, KY 42431. Transporting *general commodities,* between Wyatt, MO, on the one hand, and, on the other, points in the U.S.

MC 138257 (Sub-4F), filed August 19, 1980. Applicant: BESTWAY TRANSPORT, INC., 4900 Holabird Ave., Baltimore, MD 21224. Representative: Robert L. Cope, Suite 501 1730 M St., NW., Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission, hazardous or secret materials and sensitive weapons and munitions) for the United States Government between points in the U.S.

MC 149516 (Sub-1F), filed August 14, 1980. Applicant: OTC TRANSPORT CORPORATION, 2307 Oregon St., Oshkosh, WI 54901. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 151516 (Sub-1F), filed August 19, 1980. Applicant: JOSEPH W. HYDE, d.b.a., H. D. DELIVERY SERVICE, 130 24th St., Ogden, UT 84402. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, Utah 84111. Transporting *shipments weighing 100 pounds or less* if transported in a vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 151516 (Sub-2F), filed August 22, 1980. Applicant: JOSEPH W. HYDE, d.b.a., H. D. DELIVERY SERVICE, 130 24th St., Ogden, UT 84402. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 151606 (Sub-F), filed August 19, 1980. Applicant: MICHAEL L. TOWNS, d.b.a., HAVE TRUCK WILL TRAVEL, INC., Route 1, Box 38, Gibsland, LA 71028. Representative: Michael L. Towns (same as applicant). Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons or munitions), for the United States Government.

Volume No. OP4-029

Decided: August 22, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 119777 (Sub-499F), filed August 18, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85—East, Madisonville, KY, 42431. Representative:

Carl U. Hurst, P.O. Drawer "L", Madisonville, KY, 42431. Transporting *general commodities,* between Ramseur, NC, on the one hand, and, on the other, points in the U.S.

MC 138426 (Sub-3F), filed August 19, 1980. Applicant: CENTRAL CARRIER CORP., P.O. Box 7, Leominster, MA 01453. Representative: Arthur W. Allen, 313 Central St., Leominster, MA 01453. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Volume No. OP4-03

Decided: August 27, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 119656 (Sub-79F), filed August 25, 1980. Applicant: NORTH EXPRESS, INC., 219 Main St., Winamac, IN 46996. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting (1) *motor vehicles,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of motor vehicles, between ponts in Erie County, NY, Dale County, AL, Cood and McHenry Counties, IL, Fulton and DeKalb Counties, GA, Deviess and White Counties, IN, Geary County, KS, and Cheatham County, TN, on the one hand, and, on the other, points in the U.S.

MC 133566 (Sub-162F), filed August 21, 1980. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Representative: Daniel O. Hands, 205 West Touhy Ave., Suite 200, Park Ridge, IL 60068. Transporting (1) *plastic and plastic products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between Conyers, GA, Lawrence, Somerville, Wilmington, and Woburn, MA, and Manchester, NH, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, AR, OK, and TX, restricted to traffic originating at or destined to the facilities of Sweetheart Plastics, Inc.

MC 151376 (Sub-1F), filed August 25, 1980. Applicant: MORELL'S DISTRIBUTION, INC., Hwy 2 East, Minot, ND 58701. Representative: David C. Britton, 1425 Cottonwood St., Grand Forks, ND 58201. Transporting *non-exempt food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, between points in Ramsey County, MN, LaCrosse and Milwaukee Counties, WI, Peoria County, IL, and St. Louis County, MO, on the one hand, and, on the other, points in ND.

MC 151646F, filed August 22, 1980. Applicant: MISS-ALA DISTRIBUTORS, INC., Hwy 45 South, P.O. Box 1728, Columbus, MS. Representative: Peter A. Greene, 900 17th St., N.W., Washington, DC 20006. Transporting (1) *paper and paper products,* (2) *lumber and wood products,* and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between the facilities of Weyerhaeuser Company, Inc., at points in (a) Lamar and Sumter Counties, AL, and (b) Calhoun, Lowndes, Neshoba and Perry Counties, MS, on the one hand, and, on the other, points in the U.S.

MC 151647F, filed August 22, 1980. Applicant: ARC CARTAGE CO., INC., 3806 Woodmont Lane, Nashville, TN 37215. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S., restricted to traffic originating at or destined to the facilities of Kuhn's Big K Stores, Inc. Condition: person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(A) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

Volume No. OP4-031

Decided: August 27, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 127337 (Sub-23F), filed August 25, 1980. Applicant: CHET'S TRANSPORT, INC., Charlotte ME 04666, Representative: Lawrence E. Lindeman, 425, 13th St., N.W., Suite 1032, Washington, DC 20004. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 130996F, filed August 19, 1980. Applicant: CINCINNATI PIGGYBACK INTERNATIONAL, INC., 1400 Gest St., Cincinnati, OH 45203. Representative: Ronald N. Cobert, 1730 M St., N.W., Suite 501, Washington, DC 20036. To arrange for the transportation of *general commodities* (except household goods), between points in the U.S. Condition: Person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 147337 (Sub-2F), filed August 25, 1980. Applicant: RYAN EXPEDITING SERVICE, INC., P.O. Box 6, Farmington, MI 48024. Representative: J. P. Ryan (same address as applicant). Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. Condition: Person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(A) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 149526 (Sub-1F), filed August 20, 1980. Applicant: GOLDEN ARROW, INC., P.O. Box 726, Clifton, NJ 07015. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 149527F, filed August 18, 1980. Applicant: R.J. TAYLOR & G.G. TAYLOR, CO., a corporation, P.O. Box 7631, Warwick, RI 02287. Representative: James F. Flint, Suite 406, 918 16th St., N.W., Washington, DC 20006. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 149527 (Sub-1F), filed August 18, 1980. Applicant: R.J. TAYLOR & G.G. TAYLOR CO., a corporation, P.O. Box 7631, Warwick, RI 02887. Representative: James F. Flint, Suite 406, 918 16th St., N.W., Washington, DC 20006. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-26986 Filed 9-3-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's

Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the Federal Register of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before October 20, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extend that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP4–026

Decided August 26, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 60157 (Sub-32F), filed August 21, 1980. Applicant: C. A. WHITE TRUCKING COMPANY, a corporation, 5327 N. Central Expressway, Suite 310, Dallas, TX 75205. Representative: Bernard H. English, 6270 Firth Rd., Fort Worth, TX 76116. Transporting *scrap iron and steel,* from points in AR, CO, LA, NM, and OK, to points in TX.

MC 67646 (Sub-92F), filed August 21, 1980. Applicant: HALL'S MOTOR TRANSIT COMPANY, a corporation, 6060 Carlisle Pike, Mechanicsburg, PA 17055. Representative: Edward W. Kelliher (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Vesper, WI, as an off-route point in connection with carrier's otherwise authorized regular-route operations.

MC 98327 (Sub-47F), filed August 21, 1980. Applicant: SYSTEM 99, 8201 Edgewater, Oakland, CA 94621. Representative: Ray V. Mitchell (same as applicant). Over regular routes, transporting *general commodities,* (except those of unusual values, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Las Vegas, NV, and Salt Lake City, UT: from Las Vegas over Interstate Hwy 15 to Salt Lake City, and return over the same route, serving all intermediate points.

Note.—Applicant states that it intends to take with its existing regular route authority.

MC 105566 (Sub-228F), filed August 22, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. Transporting (1) *heating and cooling equipment,* and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, between points in Loraine and Medina Counties, OH, on the one hand, and, on the other, points in the U.S.

MC 117676 (Sub-22F), filed August 21, 1980. Applicant: HERMS TRUCKING INC., 620 Pear St., Trenton, NJ 08648. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *lawn and garden supplies and equipment* (except in bulk), between points in CT, DE, KY, MA, MD, NJ, NY, OH, PA, RI, VA, WV, and DC, restricted to traffic originating at or destined to the facilities used by O. M. Scott & Sons Company.

MC 123476 (Sub-57F), filed August 21, 1980. Applicant: CURTIS TRANSPORT, INC., P.O. Box 388, Arnold, MO 63010. Representative: David G. Dimit (same address as applicant). Transporting (1) *furniture and fixtures,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of Falcon Products, Inc., at (a) St. Louis, MO, (b) Lewisville, AR, (c) Philadelphia, PA, and (d) El Paso, TX, on the one hand, and, on the other, those points in the U.S. in and east of MT, WY, CO, and NM.

MC 128117 (Sub-40F), filed August 20, 1980. Applicant: NORTON-RAMSEY MOTOR LINES, INC., P.O. BOX 896, Hickory, NC 28601. Representative: Francis J. Ortman, 7101 Wisconsin Ave., Suite 605, Washington, DC 20014. Transporting, *new furniture and furniture parts,* (a) from points in Catawba County, NC to points in AR, LA, and CO, and (b) from points in Lincoln County, NC, to points in AR, LA, TX, OK, NM, AZ, NV, and CO, and (c) from points in Sebastin County, AR, to points in LA, MS, TN, AL, GA, NC, SC, and FL, and (d) from points in Poinsett County, AR, to points in AL, FL, GA, LA, and MS.

MC 133136 (Sub-7F), filed August 21, 1980. Applicant: ENGELMANN TRUCKING COMPANY, INC., 240 Broadway, Huntington Station, NY 11746. Representative: William J. Augello, 120 Main St., P.O. Box Z, Huntington, NY 11743. Transporting (1) *electron beam accelerator machinery,* (2) *equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, (3) *cork and plastic products,* and (4) *medical disposable products,* between points in the U.S., under continuing contract(s) with Radiation Dynamics, Inc., of Melville, NY. Condition: To the extent the certificates to be issued in this proceeding authorizes the transportation of radioactive materials, it shall be limited in point of time to a period expiring 5 years from its date of issue.

MC 136786 (Sub-233F), filed August 21, 1980. Applicant: ROBCO TRANSPORTATION, INC., P.O. Box 10375, Des Moines, IA 50306. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *fireplace logs,* from Akron, OH, to points in the U.S.

MC 136786 (Sub-234F), filed August 21, 1980. Applicant: ROBCO TRANSPORTATION, INC., P.O. Box 10375, Des Moines, IA 50308. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *confectionary* (except in

bulk), from the facilities of Fine Candy Company, at Oklahoma City, OK, to points in the U.S.

MC 138197 (Sub-3F), filed August 21, 1980. Applicant: L. SURRATT TRUCKING, INC., 7900 Old Rockside Rd., Cleveland, OH 44131. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215. Transporting *general commodities* (except household goods as defined by the Commission, and clases A and B explosives), between points in the U.S., under continuing contract(s) with Vetovitz Bros., of Brunswick, OH.

MC 138627 (Sub-96F), filed August 22, 1980. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Ft. Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. Transporting *lumber and lumber mill products,* between points in Cass County, IL, on the one hand, and, on the other, points in AR, CO, IA, IN, KS, KY, MI, MN, MO, MT, NE, ND, OH, OK, SD, TN, WI, and WY.

MC 145596 (Sub-6F), filed August 22, 1980. Applicant: A&M EXPRESS, INC., 618 United American Bank Bldg., Nashville, TN 37219. Representative: J. Greg Hardeman (same address as applicant). Transporting (1) *pulp, paper, or allied products,* and *printed matter* as described in Items 26 and 27, respectively, of the Standard Transportation Commodity Code Tariff, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Rutherford County, TN, on the one hand, and, on the other, points in VT, NH, MA, CT, RI, NJ, DE, MD, WV, NY, SC, AR, MS, OK, IA, ND, SD, NE, MT, WY, CO, NM, AZ, UT, ID, NV, WA, OR, and CA.

MC 150496 (Sub-4F), filed August 22, 1980. Applicant: P.A.M. TRANSPORT, INC., P.O. Box 188, Tontitown, AR 72770. Representative: Paul A. Maestri (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 151187 (Sub-1F), filed August 21, 1980. Applicant: ROSENDO ZEPEDA AND SONS, INC., 1601 Laredo St., Laredo, TX 78040. Representative: James W. Hightower, 5801 Marvin D. Love Freeway, #301, Dallas, TX 75237. In foreign commerce only, transporting *general commodities* (except classes A and B explosives), from Laredo, TX, to the port of entry on the international boundary line between the U.S. and Republic of Mexico at Laredo, TX.

MC 151566 (Sub-1F), filed August 15, 1980. Applicant: PERRY TRANSPORT, INC., 202 Security First Bank & Trust Bldg., Grand Haven, MI 49417. Representative: James Roach II (same address as applicant). Transporting *office and laboratory furniture, equipment, and materials,* between points in the U.S., under continuing contract(s) with Herman Miller, Inc., of Zeeland, MI. Condition: Person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(A) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 151587 (Sub-1F), filed August 19, 1980. Applicant: P&G OIL COMPANY, INC., d.b.a. P&G TRUCKING COMPANY, Lakeview Drive, Madison Heights, VA 24572. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, N.W., Washington, DC 20005. Transporting *joiner work for ships, and fixtures and furniture for use on oceangoing vessels,* between the facilities of Hopeman Brothers, Inc., at or near Waynesboro, VA, on the one hand, and, on the other, Chula Vista and San Diego, CA.

MC 151607 (Sub-F), filed August 19, 1980. Applicant: TRANS-OVERLAND XPRESS, INC., 297 County Line Road, Midlothian, TX 76065. Representative: B. G. Hignight (same as applicant). *Contract carrier* transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives) between points in the U.S., under continuing contract(s) with Sealright Co., Inc. of Kansas City, KS, Western Auto Supply Co. of Kansas City, MO, Standard T Chemical Co. Inc. of Dallas, TX and Sears, Roebuck and Co. of Dallas, TX.

Volume No. DP4-028

Decided: August 22, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 64806 (Sub-15F), filed August 19, 1980. Applicant: R. P. THOMAS TRUCKING COMPANY, INC., 807 W. Fayette St., Martinsville, VA 24112. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting *glass and metal containers,* and *closures* for the foregoing commodities, from Muncie, IN, Findlay, OH, Washington, PA, and Carteret and Jersey City, NJ, to points in NC, SC, and VA.

MC 91306 (Sub-30F), filed August 20, 1980. Applicant: JOHNSON BROTHERS TRUCKERS, INC., 1858 9th Ave., N.E., Hickory, NC 28601. Representative: Eric Meierhoefer, Suite 423, 1511 K St., N.W., Washington, DC 20005. Transporting (1) *fiberglass,* and (2) *materials and supplies* used in the manufacture of fiberglass, between points in NC, on the one hand, and, on the other, points in VA, MD, DE, PA, NJ, NY, CT, RI, MA, ME, VT, OH, WV, NH, MI, IN, KY, and DC.

MC 99746 (Sub-2F), filed August 20, 1980. Applicant: JEFFERSON TRUCK LINE, INC., 725 Girod St., New Orleans, LA 70130. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Transporting (1) *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, and (2) *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, between points in LA, on the one hand, and, on the other, points in MS, OK, and TX.

MC 108207 (Sub-558F), filed August 20, 1980. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same address as applicant). Transporting *non-exempt food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, between points in Maricopa County, AZ, on the one hand, and, on the other, points in CA, NV, NM, UT, and those in CO on and est of the Continental Divide.

MC 111496 (Sub-37F), filed August 20, 1980. Applicant: TWIN CITY FREIGHT, INC., 2550 Long Lake Rd., Roseville, MN 55113. Representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58126. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Williston, ND, and Billings, MT, serving the intermediate points of Glendive and Miles City, MT: from Williston over U.S. Hwy 85 to junction ND Hwy 200, then over ND Hwy 200 to junction MT Hwy 200, then over MT Hwy 200 to junction MT Hwy 16, then over MT Hwy 16 to junction Interstate Hwy 94, then over Interstate Hwy 94 to junction Interstate Hwy 90, then over Interstate Hwy 90 to Billings, and return over the same route.

Note.—Applicant proposes to tack the above authority with its presently

authorized operations, and to interline with other carriers.

MC 115067 (Sub-5F), filed August 19, 1980. Applicant: INDEPENDENT MOTOR TRANSPORT, INC., 32455 Hwy 34, Tangent, OR 97389. Representative: Jerry R. Woods, Suite 1440, 200 S.W. Market St., Portland, OR 97201. Transporting *such commodities* as are dealt in by grocery houses, between points in Washington County, OR, on the one hand, and, on the other, points in King and Spokane Counties, WA.

MC 119496 (Sub-18F), filed August 20, 1980. Applicant: THE JAMES GIBBSON COMPANY, a corporation, P.O. Box 253, Annapolis Junction MD 20701. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia, Rd., Alexandria, VA 22312. Transporting *petroleum and petroleum products,* between points in DE, MD, NC, NY, NJ, OH, PA, VA, WV, and DC.

MC 135007 (Sub-85F), filed August 20, 1980. Applicant: AMERICAN TRANSPORT, INC., 7850 F St., Omaha, NE 68127. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Transporting *non-exempt food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, between points in the U.S., under continuing contract(s) with Farmland Foods, Inc., of Denison, IA.

MC 138627 (Sub-95F), filed August 18, 1980. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Ft. Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. Transporting *iron an steel articles,* between Chicago IL, and points in Cowley County, KS.

MC 141317 (Sub-4F), filed August 20, 1980. Applicant: HAAG TRANSPORT, INC., P.O. Box 25, Shelburn, IN 47879. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Contract* carrier, transporting: containers, salt, pepper, and sodiumhydrosulfide, and *materials, equipment, and supplies* used in the manufacture and distribution of all the foregoing commodities, between points in the U.S., under a continuing contract(s) with Ken Hagen Manufacturing Company, of Shelburn, Indiana.

MC 145396 (Sub-6F), filed August 20, 1980. Applicant: BOYCE HOWARD d.b.a. HOWARD TRUCKING, P.O. Box 165, Newport, AR 72112. Representative: John Paul Jones, P.O. Box 3140, Front St., Station, 189 Jefferson Ave., Memphis, TN 38103. Transporting *primary metal products, inc. galvanized,* (except coating or other allied processing), and *fabricated metal products,* (except ordnance), as described in Items 33 and 34, respectively, of the Standard Transportation Commodity Code Tariff, between points in AR, LA, TX, MS, and TN.

MC 146046 (Sub-20F), filed August 20, 1980. Applicant: INTERCOASTAL LINES, LTD., 200 Foxhunt Crescent, Syosset, NY 11791. Representative: Eugene M. Malkin, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting *paper and paper articles,* between points in the U.S., under continuing contract(s) with Automatic Data Processing, Inc., of Clifton, NJ.

MC 146927 (Sub-15F), filed August 19, 1980. Applicant: DIXIE TRANSPORT, INC., P.O. Box 1126, Hattiesburg, MS 39401. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Transporting *such commodities* as are dealt in or used by manufacturers of paper and paper products, between Naheola, AL, and Meridian, MS, on the one hand, and, on the other, points in NC and SC.

MC 148586 (Sub-2F), filed August 19, 1980. Applicant: PLATTE VALLEY TRUCKING, a Partnership, P.O. Box 594, Fremont, NE 68025. Representative: James C. Yeager, P.O. Box 463, Fremont, NE 68025. Transporting *grain, gravel, sand and earthern matter, and lime and limestone,* between points in NE, and points in IA, MN, MO, and SD.

MC 148947 (Sub-1F), filed August 19, 1980. Applicant: HUNTER TRANSPORT COMPANY, INC., 1603 Long St., Chattanooga, TN 37408. Representative: Ann K. Merriman (same address as applicant). Transporting (1) *carpet,* and (2) *material, equipment, and supplies* used in the manufacture and distribution of carpet, between points in the U.S., under continuing contract(s) with Imperial Carpet Mills, Inc., of Cartersville, GA.

MC 148947 (Sub-2F), filed August 19, 1980. Applicant: HUNTER TRANSPORT COMPANY, INC., 1603 Long St., Chattanooga, TN 37408. Representative: Ann K. Merriman (same address as applicant). Transporting (1) *alcoholic beverages,* and (2) *materials, equipment, and supplies* used in the distribution of alcoholic beverages, between points in the U.S., under continuing contract(s) with Beasley Distribution Company, Inc., of Chattanooga, TN.

MC 150717 (Sub-1F), filed August 18, 1980. Applicant: R. T. JACQUES, R.D. #1, Box 296, Worthington, PA 16262. Representative: R. T. Jacques (same address as applicant). Transporting (1) *brick, cement, mortar, iron and steel articles, and lumber,* and (2) *materials, equipment, and supplies* used in the manufacture, installation, or distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with International Chimney Corporation, of Williamsville, NY, and Continental Clay Products d.b.a. McNees Kittanning Div. of International Chimney Corp., of Kittanning, PA.

MC 150766 (Sub-1F), filed August 20, 1980. Applicant: ALFRED DANIELS, INC., Route 1, P.O. Box 272-I, Jackson, OH 45640. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215. Transporting *prepared foodstuffs,* (1) between points in Jackson County, OH, on the one hand, and, on the other, points in Orange County, CA, San Antonio, TX, Tampa, FL, and points in NJ, and (2) between points in Orange County, CA, Lockport, NY, Plymouth, IN, and South Brunswick, NJ.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-26967 Filed 9-3-80; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-19 (Sub-No. 43F]

Allegheny & Western Railway Co., Buffalo, Rochester & Pittsburgh Railway Co., and The Baltimore & Ohio Railroad Co.—Abandonment—Near Worthington, Pa.; Findings

Notice is herby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided August 14, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, public convenience and necessity permit the abandonment and discontinuance of service by the Allegheny and Western Railway Company, Buffalo, Rochester and Pittsburgh Railway Company, and the Baltimore and Ohio Railroad Company of a line of railroad known as the Craigsville Branch, extending from railroad milepost 1.54 vaulation station 81+45 to railroad milepost 2.01, valuation station 106+26, a distance of 0.47 mile, at or near Worthington, Armstrong County, PA, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. Co.-Abandonment Goshen,* 360 I.C.C. 91 (1979). A certificate of public convenience and necessity permitting abandonment and discontinuance of service was issued to Allegheny and Western Railway Company, Buffalo, Rochester and Pittsburgh Railway Company, and the Baltimore and Ohio Railroad Company. Since no investigation was instituted, the

requirement of Section 1121.38(a) of the Regulations and publication of notice of abandonment decisions in the Federal Register be made only after such a decision becomes administratively final was waived.

Upon receipt of the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than September 19, 1980. The offer, as filed, shall contain information required pursuant to Section 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication.

Agatha L. Mergenovich,

Secretary.

BILLING CODE 7035-01-M

[Docket No. AB-19 (Sub-44F)]

Pittsburgh & Western Railroad Co. and Baltimore & Ohio Railroad Co.—Abandonment—and Discontinuance of Service Near Pittsburgh, Pa.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided August 14, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, the public convenience and necessity permits the abandonment by Pittsburgh and Western Railroad Company as owner, and discontinuance of service over the line by Baltimore and Ohio Railroad Company, as operator, of a portion of the 9th Street/Three Rivers Branch, between valuation stations 7848162 and 7824175, a distance of 0.36 mile, at or near Pittsburgh, Allegheny County, PA, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. Co.—Abandonment Goshen,* 360 I.C.C. 91 (1979), and further that applicants shall keep intact all of the right-of-way underlying the track, including all the bridges and culverts for a period of 120 days from August 14, 1980, to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way. A certificate of public convenience and necessity permitting abandonment and discontinuance of service was issued to Pittsburgh and Western Railroad Company and Baltimore and Ohio Railroad Company. Since no investigation was instituted, the requirements of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the Federal Register be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than September 19, 1980. The offer, as filed, shall contain information required pursuant to Section 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26981 Filed 9-3-80; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-43F)]

Seaboard Coast Line Railroad Co.—Abandonment—In Sarasota County, Pa.; Findings

Notice is hereby given pursuant to 49 U.S.C 10903 that by a Certificate and Decision decided August 8, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, the public convenience and necessity permit the abandonment by the Seaboard Coast Line Railroad Company of a portion of a line of railroad known as the Belspur Branch, Tampa Division, extending from railroad milepost AZA 933.44 at Belspur, FL, a distance of 3.14 miles in Sarasota County, FL, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. Co.-Abandonment Goshen,* 360 I.C.C. 91 (1979), and further that applicant shall keep intact all of the right-of way underlying the track, including all the bridges and culverts for a period of 120 days from August 8, 1980, to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way. A certificate of public convenience and necessity permitting was issued to Seaboard Coast Line Railroad Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the Federal Register be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than September 19, 1980. The offer, as filed, shall contain information required pursuant to Section 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-26980 Filed 9-3-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[731-TA-29 (Preliminary)]

Asphalt Roofing Shingles From Canada; Institution of Preliminary Antidumping Investigation and Scheduling of Conference

AGENCY: United States International Trade Commission.

ACTION: Institution of preliminary antidumping investigation to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry is materially retarded, by reason of imports from Canada of certain asphalt roofing shingles, provided for in items 256.90 and 523.91 of the Tariff Schedules of the United States (TSUS), allegedly sold or likely to be sold at less than fair value.

EFFECTIVE DATE: August 21, 1980.

FOR FURTHER INFORMATION CONTACT: Vera Libeau, Senior Investigator (202-523-0368).

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted following receipt of a petition on August 21, 1980, filed by the Asphalt Roofing

Manufacturers Association, on behalf of domestic producers of asphalt roofing shingles. The petition requested the imposition of additional duties in an amount equal to the amount by which the foreign market value exceeds the United States price of asphalt roofing shingles imported from Canada.

Authority

Section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) requires the Commission to make a determination of whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports alleged to be, or likely to be, sold in the United States at less than fair value. Such a determination must be made within 45 days after the date on which a petition is filed under section 732(b) or on which notice is received from the Department of Commerce of an investigation commenced under section 732(a). Accordingly, the Commission, on August 29, 1980, instituted preliminary antidumping investigation No. 731–TA–29. This investigation will be subject to the provisions of part 207 of the Commission's Rules of Practice and Procedure (19 CFR 207, 44 FR 76457) and particularly, subpart B thereof.

Written Submission

Any person may submit to the Commission on or before September 19, 1980, a written statement of information pertinent to the subject matter of this investigation. A signed original and nineteen copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 10 a.m., e.d.t., on September 15, 1980, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the senior investigator for the investigation, Ms. Vera Libeau (202–523–0368). It is anticipated that parties in support of the petition for antidumping duties and parties opposed to such petition will each be collectively allocated one hour within which to make an oral presentation at the conference. Further details concerning the conduct of the conference will be provided by the senior investigator.

Inspection of Petition

The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission and at the New York City Office of the U.S. International Trade Commission located at 6 World Trade Center.

Issued: August 29, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-27070 Filed 9-3-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-81]

Certain Hollow-Fiber Artificial Kidneys; Granting of Motion To Add Terumo Corp. as a Respondent

Upon consideration of Motion Docket No. 81–5, as certified to the Commission by the Administrative Law Judge (ALJ) on July 14, 1980, and the ALJ's recommendation that the motion be denied, the Commission has ordered that said motion is granted.

Copies of the Commission action and the Commission order are available to the public during official working hours at the Office of the Secretary, U.S. International Trade Commission, 701 E Street, N.W., Washington, D.C., telephone (202) 523–0161.

By order of the Commission:

Issued: August 28, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-27069 Filed 9-3-80; 8:45 am]

BILLING CODE 7020-02-M

[AA1921-159]

Tantalum Electrolytic Fixed Capacitors From Japan

Determination

On the basis of information obtained in investigation No. AA1921–159, as that information is modified by the corrected import statistics for tantalum electrolytic fixed capacitors from Japan for the period January 1975 through June 1976, the Commission determines (Commissioners Moore and Bedell dissenting) that as of October 22, 1976, the date of the Commission's earlier determination regarding tantalum electrolytic fixed capacitors from Japan, an industry in the United States was not being and was not likely to be injured, and was not prevented from being established, by reason of the importation of tantalum electrolytic fixed capacitors from Japan sold, or likely to be sold, at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

Background

In October 1976 the Commission determined that an industry in the United States was not being injured and was not likely to be injured, and was not prevented from being established, by reason of the importation of tantalum electrolytic fixed capacitors from Japan sold, or likely to be sold, at less than fair value (LTFV). The Commission's determination was appealed to the United States Customs Court on September 14, 1977.[1]

Subsequent to the Commission's determination, it was discovered that certain of the official import statistics relied upon by the Commission in reaching its determination had been underreported. Specifically, a Bureau of the Census/Customs Service investigation revealed that the quantities of tantalum electrolytic fixed capacitors imported from Japan in 1975 and the first six months of 1976 (the most recent period for which official import statistics were available at the time of the Commission's determination) were substantially understated.

On March 27, 1980, the Customs Court issued an order in the *Sprague Electric* appeal directing the Commission to take—

> a new vote on the question of whether, in light of the correct import statistics for tantum electrolytic fixed capacitors from Japan, sales of such merchandise at LTFV were injuring or were likely to injure an industry in the United States within the meaning of the Antidumping Act of 1921 * * *.[2]

On May 23, 1980, the Customs Court modified its earlier directive to the Commission by instructing the Commission to—

> consider in its deliberations on remand the effect of Nippon Electric Company's plans to increase productive capacity for, and exportation to the United States of, epoxy dipped tantalum electrolytic fixed capacitors.[3]

In the opinion accompanying its order of May 23, 1980, the Customs Court

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[1] *Sprague Electric Company* v. *United States* (Customs Court No. 77-9-03056).

[2] C.R.D. 80-3 (March 27, 1980).

[3] C.R.D. 80-6 (May 23, 1980).

expressed agreement with the view that the Department of Treasury's July 1976 final determination of sales at LTFV was binding upon the Commission as a matter of law, and that the Commission had no authority to refine or modify the class or kind of merchandise found to be, or likely to be, sold at LTFV.

In arriving at its determination in this matter, the Commission has given due consideration to written submissions received from interested persons, information obtained during the course of investigation No. AA1921–159, and the corrected official import statistics for tantalum electrolytic fixed capacitors from Japan for the period January 1975 through June 1976 as reported by the Bureau of the Census. With the exception of the corrected import statistics, the Commission has not considered any information obtained subsequent to the date of its earlier determination.

Views of Chairman Bill Alberger, Vice Chairman Michael J. Calhoun, and Commissioner Paula Stern

In accordance with the instructions of the United States Customs Court, we have reviewed the confidential staff report of September 1976 and the statement of reasons in the Commission's report on *Tantalum Electrolytic Fixed Capacitors,* USITC Publication 789, October 1976, as revised to reflect corrected import statistics. In our deliberations we have considered all imports of tantalum electrolytic fixed capacitors from Japan less those from Matsushita Electrical Industrial Co., Ltd., as sales at less than fair value (LTFV) for the purpose of addressing present and future injury.

We are persuaded that any injury suffered by the U.S. industry as of October 22, 1976, was not caused or likely to be caused by LTFV imports of tantalum electrolytic fixed capacitors (tantalum capacitors), but rather by the recessionary forces at work in the electronics industry. Taking into account the corrected import statistics, as well as the modification of the content of LTFV sales, we believe that the penetration of the U.S. market and the underselling of U.S. producers were not of sufficient magnitude to warrant a determination of injury by reason of LTFV sales.

Product and Domestic Industry

Capacitors are devices for storing electrical energy in the form of electrons in an electric circuit. Tantalum capacitors are especially suitable for applications in which high reliability, long service, long shelf life, and high capacity to volume ratios are needed. Of the three types of tantalum electrolytic fixed capacitors, the solid type accounted for 90 percent of the U.S. market and virtually all of the LTFV imports.

We consider the relevant industry in this determination to be those facilities in the United States where tantalum capacitors are produced. There were 14 firms which operated 17 establishments producing tantalum capacitors in the United States in 1975.

No Injury by Reason of LTFV Imports

Japanese LTFV imports fell sharply in 1975 after reaching a high in 1974. Although such LTFV imports increased in the first six months of 1976 over that of 1975, other relevant indices show a concurrent improvement in the health of the U.S. industry.

Data for the January-June 1976 period reveal the degree of recovery in the domestic tantalum capacitor industry. U.S. consumption of tantalum capacitors increased 45 percent during the first 6 months of 1976 from the same period in 1975. During this same period, U.S. production and shipments had so improved over levels in 1975 (37 percent) that the domestic producers were again producing at levels achieved during 1973 and 1974, years showing high capacity utilization, sales, production, shipments, and net profit to net sales ratios of 10 percent.

Capacity utilization by the end of June 1976 showed an industry on its way to recovery with growing utilization rates, substantially above those achieved during the economic downturn. Financially, U.S. producers of tantalum capacitors fared much better during the recession than the electronics industry in general, having a profit to sales ratio in 1975 about twice the level for the broader industry. Further, by January-June 1976, producers accounting for the bulk of domestically produced tantalum capacitors were experiencing increasing profits and high ratios of net operating profits to net sales. Employment in the domestic tantalum capacitor industry increased during the first six months of 1976 after large reductions during 1974 and 1975.

The share of U.S. apparent consumption held by both solid tantalum capacitors (the category where imports would have affected the market most) and tantalum electrolytic fixed capacitors as a whole increased throughout the period 1974–1976. Increases in shipments of domestically produced tantalum capacitors exceeded the market gains achieved by LTFV imports during this same period. Only the major supplier of LTFV capacitors consistently undersold domestic producers. During 1975 and January-June 1976, domestic tantalum capacitors undersold Japanese-made tantalum capacitors in about three out of four instances where they met in the market. Further, in almost two-thirds of those instances where the Japanese-made capacitor was priced lower, the Japanese LTFV import was not purchased. Instances of U.S. firms underselling other U.S. firms were more than double those of Japanese imports underselling a domestic firm. Taking into account the corrected import statistics, as well as the modification of the class or kind of LTFV imports, we believe that the penetration of the U.S. market and the underselling of U.S. producers were not of sufficient magnitude to warrant a determination of injury by reason of LTFV sales.

No Likelihood of Injury by Reason of LTFV Imports

Information obtained during the investigation indicated that Japanese producers were increasing their capacity to produce tantalum capacitors in 1976 and 1977 and that some of the increased production would likely be exported to the United States. The information was obtained from three separate sources and was incomplete in that data from each source could not be correlated with the other sources. Further, the estimated increased capacity was not related to a base capacity such that the magnitude of the capacity increase could be quantified reliably. We believe that the information available to the Commission was not sufficient to impute a likelihood of injury. To the contrary, the domestic industry—growing before the recession—gave every indication that it was again growing in January-June 1976 after the recession abated. During the recession, the industry producing tantalum capacitors fared much better than the electronics industry as a whole.

Consideration of Nippon Electric Company's *plans* to increase productive capacity for, and exportation to the United States of, epoxy dipped tantalum capacitors in and of itself does not establish grounds for a determination of likelihood of injury by reason of LTFV sales. We do not believe that an increase in the capacity of Japanese producers to manufacure tantalum electrolytic fixed capacitors portended a threat to a strong and growing industry in the United States. The evidence gathered by the Commission regarding any increased exports from Japan did

not show real and imminent threat to the domestic industry.[1]

Findings of Fact

Paragraph 3 of the order of the U.S. Customs Court of March 27, 1980, (CRD 80-3) directed the Commission to submit to the Court its new determination "together with a complete statement of findings and conclusions, and the reasons or bases thereof, on all material issues of fact or law presented, including the materiality of the corrected import statistics on the Commission's new determination." Our findings of fact and conclusions of law are as follows:

A. Volume of Imports

1. The volume of U.S. imports of tantalum capacitors from Japan rose from 7.0 million units in 1972 to 18.3 million units in 1973 to 32.2 million units in 1974 before falling to 22.0 million units in 1975. The volume of LTFV imports (Japanese imports less Matsushita) from Japan experienced "about a one-third" decline from the 1974 level to 1975. Imports during January-June 1976 were approximately twice the level of the corresponding period of 1975. (Report at p. 68, p. 86, tables 2, 19)

2. Although LTFV imports from Japan increased as a share of the U.S. market for tantalum capacitors throughout the period of investigation, at no time did the share of total U.S. consumption held by LTFV imports equal 10 percent. (Report at p. 86, table 19)

3. Japanese producers were increasing their capacity to produce tantalum capacitors in 1976 and 1977, although the magnitude of this projected increase could not be quantified reliably. Some of the increased production would likely be exported to the United States. (Report at pp. 30-31)

B. Effect of Imports on U.S. Price

4. The average weighted prices of all Japanese importers' (except one) of tantalum electrolytic fixed capacitors were lower than the domestic producers' average weighted delivered prices from 1972 to 1976. However, during 1975 and January-June 1976, Japanese-made capacitors were priced below U.S.-made capacitors in only about 25 percent of the instances where they met in the market-place. In nearly two-thirds of those instances, the Japanese-made capacitor was not purchased. In cases where the Japanese-made capacitor was purchased, the quantities purchased were small in comparison with the purchases of U.S.-made capacitors. In most price comparisons involving actual sales transactions, U.S.-produced capacitors sold below the price of Japanese-produced products. Sales lost by U.S. producers compared with the recession-induced drop in demand were minimal (Report at pp. 34-37).

5. Two Japanese firms accounted for a majority of LTFV sales during the period of investigation. The LTFV margins of Matsushita, a major source of Japanese tantalum capacitors, were found by the Treasury Department to be *de minimis*. Only one major supplier of LTFV Japanese-made capacitors consistently undersold the domestic producers. Price suppression and price depression were not likely as a result of LTFV sales. The worldwide recession of 1975 in the electronics industry, rather than LTFV imports, caused most decreases in prices. (Report at pp. 33, 37, 44, 46, and 48)

Impact on an Affected Industry

6. U.S. producers' shipments had decreased from 441 million units in 1974 to 300 million units in 1975, a 32 percent decline during the height of the economic recession. However, domestic producers' shipments of tantalum capacitors jumped 37 percent from 156.7 million units in January-June 1975 to 217.1 million units in January-June 1976. (Report at p. 72, table 6)

7. Domestic consumption of tantalum capacitors decreased from 845 million units in 1974 to 527.5 million units (corrected data) in 1975, a drop of 38 percent during the period of the economic downturn. However, U.S. consumption of tantalum capacitors rose from 228.2 million units (corrected data) in January-June 1975 to 329.5 million units (corrected data) in January-June 1976, a 45 percent increase. (Report at p. 85, table 18)

8. The share of U.S. apparent consumption of tantalum capacitors held by domestic producers (based on quantity) increased from 62.1 percent in 1974 to 70.5 percent in 1975 and continued to increase in January-June 1976. U.S. market share of solid tantalum electrolytic fixed capacitor consumption held by domestic producers (based on quantity) experienced similar increases. These gains in market share exceeded those achieved by Japanese LTFV imports throughout the period of investigation with respect to both the individuals solid tantalum capacitor and the general tantalum capacitor market. (Report at pp. 68-69, pp. 85-86, tables 2, 3, 18, and 19)

9. Sales and profitability of the domestic producers increased during January-June 1976 as compared to the first half of 1975. Only one minor producer provided profit-and-loss information that showed a slight decline in profits and net operating profits to net sales ratio. Domestic producers of tantalum capacitors fared better than the norm for the electronics industry as a whole, having a profit-to-sales ratio approximately twice the level achieved by all makers of electrical and electronic equipment in that year. Net operating profits dropped from 10 percent in years 1973-1974 to 5 percent in 1975, a year in which imports dropped sharply and where market shares held by Japanese produced imports were very low. (Report at pp. 26-29)

10. U.S. producers' year-end inventories of tantalim capacitors experienced a general rise throughout the investigative period although year-end inventories declined by 3 percent from 1974 to 1975. (Report at p. 18 and table 7)

11. Employment in U.S. establishments where tantalum capacitors are produced reached its low point in 1975 and then increased 7 percent during January-June 1976. The large reduction in employment during 1974-1975 was almost entirely attributable to the recession. (Report at pp. 22-23, tables 13-14)

12. Capacity utilization for all major domestic producers of tantalum capacitors recovered to a range of 40 to 78 percent during January-June 1976 after the general industry decline in 1975. With the exception of 1 major firm, the industry had been operating in the 25 to 50 percent capacity utilization range in 1975.

Conclusions of Law

1. As of October 22, 1976, an industry in the United States was not being and was not likely to be injured by reason of the importation of tantalum electrolytic fixed capacitors from Japan that were sold, or were likely to be sold, at LTFV within the meaning of the Antidumping Act, 1921, as amended.

2. Our determination is not materially affected either by consideration of the corrected import statistics or by the change in the class or kind of merchandise covered by the final LTFV sales determination of the Department of the Treasury.

Statement of Reasons for Affirmative Determinations of Commissioners Moore and Bedell

Introduction

When the Commission determined by a 5 to 1 vote in October 1976 that an industry in the United States was not

[1] Since there is an active domestic industry in the United States producing tantalum electrolytic fixed capacitors, prevention of establishment of an industry is not an issue.

being injured and was not likely to be injured by imports of tantalum electrolytic fixed capacitors from Japan sold, or likely to be sold, at less than fair value ("LTFV"), we voted with the majority. Our negative determinations at that time were based in part on official import statistics for tantalum capacitors from Japan subsequently discovered to have been substantially underreported, and in part on our view that the anticipated increase in exports to the United States of "epoxy dipped" tantalum electrolytic fixed capacitors manufactured by Nippon Electric Co. ("NEC") should not be used as a basis for finding likelihood of injury. Our view in the latter regard was based on the fact that the Treasury Department had found no margins on NEC's sales of epoxy dipped capacitors.

The United States Customs Court has now remanded the Japanese capacitors case to the Commission with instructions to take—

> A new vote on the question of whether, in light of the correct import statistics for tantalum electrolytic fixed capacitors from Japan, sales of such merchanside at LTFV were injuring or were likely to injure an industry in the United States within the meaning of the Antidumping Act of 1921 * * *.

The Court has also directed the Commission to consider in its deliberations the effect of NEC's plans to increase productive capacity for, and exportation to the United States of, epoxy dipped tantalum electrolytic fixed capacitors.

In reconsidering our earlier determinations in light of the Customs Court's decisions, we find ourselves in substantial agreement with the dissenting views of former Commissioner Parker on the question of likelihood of injury.[1] Thus, we now find that, as of the date of the Commission's earlier determination, an industry in the United States was likely to be injured by reason of the importation from Japan of tantalum electrolytic fixed capacitors which the Treasury Department had determined were likely to be sold at LTFV.

Likelihood of Injury

In accordance with that we believe to be our mandate from the Customs Court, we have considered the class or kind or merchandise sold, or likely to be sold, at LTFV in this case to be all Japanese tantalum electrolytic fixed capacitors except those sold by Matsushita Electrical Industry Co., Ltd. The combined effect of considering (1) all Japanese capacitors except those sold by Matsushita and (2) the revised import statistics, is to almost triple the ratio of LTFV imports to apparent U.S. Consumption for 1976 and the first six months of 1975. Thus, for 1975 the ratio increases from * * * percent to * * * percent; for the first six months of 1976 the ratio increases from * * * percent to * * * percent. The corresponding ratios for 1972, 1973, and 1974 were * * * percent, * * * percent, and * * * percent, respectedly.[2] It is evident from these figures that the portion of U.S. apparent consumption accounted for by LTFV imports increased steadily during the period January 1972 through June 1976. We regard this increasing trend as an important indication that the U.S. tantalum capacitor industry was faced in October 1976 with the likelihood of injury.

During its earlier investigation, the Commission obtained information from several sources indicating that Japanese capacity to produce tantalum capacitors would increase in 1976–77 and that NEC, by far the largest Japanese manufacturer of tantalum capacitors, planned to increase substantially its capacitor exports (primarily epoxy dipped) to the United States in 1977. The projected increase in Japanese productive capacity was believed to be far in excess of home-market demand. NEC's increased exports to the United States were scheduled to come at a time when price competition in the U.S. market for tantalum capacitors was intensifying, and when the domestic industry was still struggling to recover fully from the economic recession of 1975. In our judgment, the prospect of sharply increased exports to the United States of tantalum electrolytic fixed capacitors posed a likelihood of injury to the domestic industry in October 1976.

Other factors supported the view in October 1976 that increased imports of Japanese tantalum capacitors posed a likelihood of injury to the domestic industry. Since 1972, Japanese suppliers had exported an increasing share of their production of tantalum capacitors to the United States. By 1976 those suppliers had been able to establish commercial relationships with several of the largest U.S. users of capacitors, users accustomed to purchasing large quantities of capacitors in a single transaction. Formerly, domestic producers had supplied the bulk of capacitors sold in that market since that was an area where domestic producers had been able to complete successfully with the Japanese.

Issued: August 25, 1980.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-27076 Filed 9-3-80; 8:45 am]

BILLING CODE 7020-02-M

[1] Statement of reasons for Affirmative Determination of Commissioner Joseph O. Parker, *Tantalum Electrolytic Fixed Capacitors from Japan*, USITC Publication 789 (October 1976).

[2] The official import statistics for tantalum capacitors from Japan for 1972, 1973, and 1974 have not been revised by the Bureau of the Census.

INTERNATIONAL TRADE COMMISSION

Termination of Countervailing Duty Investigation Concerning Certain Steel Products From Italy

AGENCY: U.S. International Trade Commission.

ACTION: Termination of countervailing duty investigation under section 704(a) of the Tariff Act of 1930 and section 104(b)(1) of the Trade Agreements Act of 1979, with regard to certain steel products from Italy.

EFFECTIVE DATE: August 26, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Leahy, Office of Investigations, telephone number (202) 523–1369.

SUPPLEMENTARY INFORMATION: The Trade Agreements Act of 1979, subsection 104(b)(1), requires the Commission in the case of a countervailing duty order issued under section 303 of the Tariff Act of 1930, upon the request of a government or group of exporters of merchandise covered by the order to conduct an investigation to determine whether an industry in the United States would be materially injured, threatened with material injury or that the establishment of such industry, would be materially retarded if the order were to be revoked. On March 27, 1980, the Commission received requests from the Societa Anonima Elettrificazione S.p.A. and from the Delegation of the Commission of the European Communities for the review of outstanding countervailing duty orders on galvanized fabricated structural steel units for the erection of electrical transmission towers (T.D. 67–102) and certain steel products: fabricated structural steel units for the erection of electrical transmission towers, not galvanized (T.D. 69–113).

On June 13, 1980 the Commission was notified by letter that U.S. Steel, the original petitioner in these countervailing duty orders wished to withdraw its petition on certain steel products (T.D. 69–113) as to all of the nine product groups covered by that order pursuant to section 704(a) of the Tariff Act of 1930.

While there is no provision in the Trade Agreements Act of 1979, or in its legislative history, permitting termination of a transition case investigation, termination of a properly instituted countervailing duty investigation is permitted under section 704(a). That section directs the Commission to solicit public comment prior to termination and approve such termination only if it is in the pubblic interest. Since termination is permitted in cases based on newly filed countervailing duty petitions, it should also be permitted as to existing countervailing duty orders.

On July 9, 1980 (45 FR 46262 (July 9, 1980)) the Commission published a notice in the Federal Register requesting public comment by August 8, 1980 on the proposed termination of the Commission investigation on certain steel products from Italy (T.D. 69–113). No adverse comments were received in response to the Commission's notice.

Pursuant to section 704(a) of the Tariff Act of 1930 the Commission is therefore terminating its investigation under section 104(b)(1) of the Trade Agreements Act of 1979 on certain steel products from Italy (T.D. 69–113) which includes the following nine product groups:

Commodity

1. Steel pipes for penstocks, even armored, of the type used for hydroelectric installations.

2. Cables, ropes plaits and such in iron or steel wire, with or without core of other materials, excluding those insulated for electricity; except as stated below: Galvanized steel wire rope. Stainless steel aircraft cable.

3. Staples in strip form.

4. Nails of iron or steel.

5. Bolts and nuts of iron or steel except as noted below: Galvanized nuts.

6. Rivets of iron or steel.

7. Forged steel grinding balls.

8. Wheels and axles of vehicles for railroads.

9. Iron and steel constructions and their parts, such as pieces for bridges, steel structural works, gates, frameworks, etc., not galvanized.

In addition to publishing this Federal Register notice, the Commission is serving a copy of this notice on all persons who have written the agency in connection with this investigation and is also notifying the Department of Commerce of its action in this case.

Issued: August 27, 1980.

By order of the Commission:
Kenneth R. Mason,
Secretary.

[FR Doc. 80-27066 Filed 9-3-80; 8:45 am]
BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

[Attorney General Order No. 910–80]

Newspaper Operating Arrangement; Times Printing Co., and the Chattanooga News-Free Press Co.

September 2, 1980.

The applicants have filed for approval of a joint operating arrangement between the *Chattanooga Times* and the *Chattanooga News-Free Press*, pursuant to the Newspaper Preservation Act, 15 U.S.C. 1801–1804. The Act provides a limited antitrust exemption for arrangements which the Attorney General approves after his determination that "not more than one of the newspaper publications involved . . . is a publication other than a failing newspaper" and that "approval of such arrangement would effectuate the policy and purpose of [the Act]." 15 U.S.C. 1803(b). On the basis of the record as constituted in accordance with 28 CFR 48.13, I make the following findings of fact and conclusions of law. 28 CFR 48.14.

(1) *The Chattanooga Times is a Failing Newspaper.* The Newspaper Preservation Act defines a "failing newspaper" as one which, "regardless of its ownership or affiliations, is in probable danger of financial failure." 15 U.S.C. 1802(5). For the reasons set out in detail in the *Supplemental Report of the Assistant Attorney General in Charge of the Antitrust Division*, Pub. File No. 44–03–25–5 (July 1, 1980), the *Chattanooga Times* satisfies that standard regardless of whether its financial condition is considered as of the time of the March 24 application or as of the present.

The *Times* has been profitable in only three of the years since 1966. It has lost $2.7 million in the last four years, with its largest loss, $1.3 million, coming in 1979. It projects losses of $1.8 million for 1980, having already lost approximately $1.3 million this year. The *Times'* daily and Sunday circulation has decreased more than 18 percent in the last five years.

There does not appear to be any reasonable prospect that the *Times'* history of accelerating losses can be reversed. Nor is there a prospect that new ownership or management could take actions likely to improve materially the *Times'* future financial condition. Accordingly, the Antitrust Division's conclusion that the paper is "failing" is sustained, and the Act's first requirement is satisfied: "not more than one of the newspaper publications involved in the arrangement is a publication other than a failing newspaper," 15 U.S.C. 1803(b).

(2) *Approval of the Arrangement Would Effectuate the Policy and Purpose of the Act.* Although the proposed joint operating arrangement would eliminate commercial competition between the newspapers, news and editorial operations would remain separate. The congressional policy animating the Newspaper Preservation Act is a concern for the maintenance of "a newspaper press editorially and reportedly independent and competitive," 15 U.S.C. 1801. Because the *Chattanooga Times* is a failing newspaper, and because the arrangement for which approval is sought would preserve for Chattanooga two separate and independent editorial and reportorial voices, the Act's second requirement is satisfied: "approval of such arrangement would effectuate the policy and purpose of [the Act]," 15 U.S.C. 1803(b).

(3) *Scope of Approval.* The applicants' original application for a joint operating arrangement was filed on March 24, 1980. On May 12, without waiting for approval, the applicants implemented a joint operating arrangement incorporating some, but not all, of the elements included in their March 24 proposal. The question is whether that action bars approval of any part of the March 24 application at this time, regardless of the conclusions set forth in paragraphs 1 and 2 above.

Review of the relevant statute and regulation makes it clear that the antitrust exemption provided for by Congress is only available to arrangements entered into with the *prior* consent of the Attorney General. The Act states:

> "It shall be unlawful for any person to enter into, perform, or enforce a joint operating arrangement, not already in effect, except with the *prior* written consent of the Attorney General of the United States." 28 U.S.C. 1803(b) (emphasis added).

The applicable regulation states:

> "Joint newspaper operating arrangements that are put into effect without the prior written consent of the Attorney General remain fully subject to the antitrust laws." 28 CFR 48.1.

Accordingly, those arrangements already implemented without consent are not eligible for the statutory exemption and cannot be approved.

On the other hand, despite some unfortunate phrasing the Act does not function to affirmatively disadvantage newspapers that enter into arrangements without the Attorney General's consent—it merely deprives them of the advantage of antitrust immunity. *See Newspaper Guild* v. *Levi*, 539 F. 2d 755 (D.C. Cir. 1976), *cert. denied*, 429 U.S. 1092 [1977]. And nothing in the statute or regulations precludes approval of not-yet-instituted joint operating arrangements solely because other arrangements were implemented without authorization. Accordingly, because as discussed in paragraphs 1 and 2, *supra*, the statutory prerequisites for approval are satisfied in this case, approval can be granted for those elements of the applicants' proposal which have not yet been put into operation.

4. *Disposition.* Although the applicants have urged approval of their entire March 24th proposal, they have also submitted, in anticipation of the result reached here, a description of those elements of their original application which they contend have not yet been implemented. *See Response of the Times and New-Free Press to the Supplemental Report of the Antitrust Division*, Pub. File No. 44-03-25-5, at 2-4 (July 11, 1980); *id* (attached letter). Other interested parties have taken issue with that description. *See Response of the International Typographical Union and its Local Affiliates to the Supplemental Report of the Assistant Attorney General*, Pub. File No. 44-03-25-5, at 18-20 (July 31, 1980). Any person may, during the next 10 days, file a further memorandum addressed to this issue.

The Antitrust Division is directed to review the description submitted by the applicants, as well as any additional memoranda which have been or will be filed on this issue, and to conduct any further inquiries necessary to determine which elements of the joint operating arrangement have not yet been instituted. The Division is directed to submit a Report within 21 days stating the results of its investigation and listing such elements. Any person may file a response to that Report within 10 days of its issuance. Following review of the Antitrust Division's Report and all other submissions on the issue, a determination will be made as to which aspects of the proposed joint newspaper operating arrangement should be approved.

Benjamin R. Civiletti,
Attorney General.

[FR Doc. 80-26990 Filed 9-3-80; 8:45 am]
BILLING CODE 4410-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 80-36]

Special Study, Safety Recommendations and Responses; Availability

Aviation Safety Special Study

Commuter Airline Safety (NTSB-AAS-80-1).—The National Transportation Safety Board has maintained a significant interest in commuter airline safety since the Board's creation in 1967. The Safety Board's involvement with commuter safety is reflected in accident reports, safety recommendations, and special studies which cover the period since 1970. In 1979, the Safety Board designated 14 CFR Part 135 enforcement and surveillance as a fiscal year 1980 safety objective. In October 1979, after a series of commuter accidents, the Board undertook a special study of commuter airline safety, and in January 1980, conducted a 4-day public hearing on the subject.

This study, made public on August 26, includes a review and analysis of the commuter airline industry accident history since 1972, an analysis of the predominant safety issues which affect the commuter airline industry, and a review of the relationship of the Federal regulators to the commuter airlines. The Safety Board developed the basis of the study from its 1972 special study of air taxis, the Board's accident statistics, and accident investigation experience, and from an extensive field survey.

The study discusses the operational, maintenance, training, and regulatory areas of the industry and analyzes safety deficiencies. The Board concludes that the basis to sound commuter airline safety must come from a coordinated program which includes the implementation of the new 14 CFR Part 135, Federal Aviation Administration surveillance and enforcement efforts, and a strong safety-oriented posture by commuter managers. Coupled with this program must be FAA's permanent recognition of the commuter industry as an airline industry rather than as a segment of general aviation. Finally, the Board has made a number of safety recommendations to the FAA designed to enhance the commuter airline industry.

By letter of August 8 the Safety Board reiterated recommendations Nos. A-79-80, A-79-81, A-78-27, A-78-28, and A-78-29. These recommendations called for tightened pilot training and flight and duty time regulations, and for both interim and long-range requirements for recorders in complex commuter aircraft. The recorder recommendations had been made six times before. Also, the Board's August 8 letter issued 12 new recommendations, Nos. A-80-64 through -75. Recommendation A-80-64 called on FAA to create a new classification of specially trained commuter airline inspectors to help raise commuter safety to a level approaching that of large airlines. Goals of the other new recommendations include improved pilot qualification and training, better scheduling of maintenance surveillance, refinements in weight-and-balance procedures, required training of dispatch personnel, and expansion of the airport aid program to support commuter-served airports and improve their navigation-aid equipment—insuring an instrument approach facility at each to the extent possible. (See also 45 FR 55877, August 21, 1930.)

Safety Recommendation Letters

Pipeline

P-80-61 through -65 to the Research and Special Programs Administration, U.S. Department of Transportation, August 20, 1980.—The Safety Board has conducted a study evaluating the management and use by the Department of Transportation of its gas pipeline data system. This study examines the types of data collected, how the data system operates, and how it is being used by DOT in fulfilling its responsibility for promoting public safety regarding gas pipelines. The study also evaluates the changes to the data system that are currently being considered by DOT and whether further changes are required. Copies of the study, "Safety Effectiveness Evaluation of the Materials Transportation Bureau's Pipeline Data System," are being prepared for distribution and will be available in the near future.

The Safety Board's evaluation found that Materials Transportation Bureau staff resources are limited, and that, consequently, use of the pipeline data to direct and focus resources is essential for the effective and efficient administration of the Pipeline Safety Act. The Board concludes, however, that the pipeline data currently collected by MTB are often inaccurate and are not representative of gas pipeline operators

and gas pipeline accidents. Furthermore, the present data system is seldom used by MTB pipeline offices in carrying out their regulatory and enforcement functions. There is little cooperation or coordination regarding the data system between the Safety Data Management Branch and the regulation and enforcement offices. Inadequacies in the data system have been pointed out to the MTB in the past, but the agency has responded slowly to such criticisms, and has been developing new reporting forms for over 6 years. To date, no changes have been implemented.

In its study, the Board also found that MTB does not have a pipeline data analysis plan, which the Board believes is necessary to coordinate and direct MTB's pipeline offices in the use of the data system as a management tool. Development of such a plan must precede revision of the data reporting forms and reporting requirements to guide the selection of data collected and to assure that it is requested in a useable form. The Board concludes that the MTB upper management must make a strong commitment to developing an improved data system and coordinating its use.

Accordingly, the Safety Board recommends that the Materials Transportation Bureau of the Research and Special Programs Administration:

Develop and publish for public comment a formal data analysis plan for the pipeline data system. (P-80-61)

Expedite the proposed creation of an Office of Regulatory Planning and Analysis and define responsibilities for development and management of a pipeline data analysis plan. (P-80-62)

Postpone promulgation of proposed, revised pipeline data forms until development of a data analysis plan and coordination of the forms with the plan. (P-80-63)

Develop explicit directions for completion of the present data forms to improve the quality of the information collected on these forms. Assure that terms not universally accepted across the pipeline industry are defined. (P-80-64)

Train existing personnel to more effectively validate incoming leak report forms. (P-80-65)

Each of the above pipeline safety recommendations is designated "Class II, Priority Action."

Railroad

R-80-34 and -35 to Burlington Northern, Inc., August 21, 1980.—About 3:30 a.m. on February 16, 1980, nine westward bound locomotive units of the Burlington Northern (BN) collided with BN standing train Extra 2048 East (No. 178), which consisted of 65 cars and a caboose at Angora, Nebr. The head brakeman of train No. 178 and the engineer of Extra 7814 West were killed, and three crewmembers were injured. Three locomotive units and 12 cars derailed. Damage was estimated at $1,297,000. At the time of the accident, it was dark and light snow was falling. Witnesses indicated that visibility was poor.

Investigation indicated that train No. 178, powered by a three-unit locomotive, had stalled on an ascending grade; the crew was instructed by the train dispatcher to uncouple the locomotive and proceed to Angora. The dispatcher's intention was to make use of a six-unit locomotive from a westbound train (Extra 7814 West) in Angora to pull the train over the hill, but he did not give either train crew specific instructions on how the locomotives were to be handled after the meeting in Angora. As a result, the crews coupled the nine locomotive units—Burlington Northern special instructions prohibit coupling more than seven locomotive units—without connecting the air brakes or power cables between the six locomotive units and the three original units from train No. 178. When the locomotives, which then were operated by an engineer in the third unit from the front end, began moving on the downgrade toward the stalled train, the weight of the six added units whose brakes were not connected quickly caused the speed to increase and overcome the braking force of the three lead units.

The Safety Board notes that neither the conductor of train No. 178 nor the conductor of Extra 7814 West supervised the intended compliance with the train orders, and no other supervision was available for the move. Most of the crewmembers had been trained in BN schools for new employees, but it is almost impossible to substitute this type of training for experience needed by employees to properly handle an operation similar to the one involved in the accident. In these cases, supervision becomes a necessity. Therefore, the Safety Board recommends that the Burlington Northern:

Provide the equipment necessary to make couplings between all units of a locomotive so that the engineer will have complete control of all locomotive units. (Class II, Priority Action) (R-80-34)

Insure that Rule 800, which assigns the responsibility for train operation to conductors, is adhered to strictly and that conductors are adequately trained to make the necessary decisions for the safe handling of the train. (Class II, Priority Action) (R-80-35)

Responses to Aviation Safety Recommendations

A-78-56, from the Federal Aviation Administration, August 22, 1980.—Letter supplements FAA's response of last January 4 (45 FR 3412, January 17, 1980) concerning recommendations issued as a result of investigation into the November 6, 1977, Semco Model T hot air balloon accident near Mosquero, N. Mex. The recommendation asked FAA to issue an Airworthiness Directive to require means for securing the canvas dodger to the deck or require other means for eliminating the existing gap between the dodger and the deck on the Semco Model T and Challenger AX-7 balloons.

FAA reports that Airworthiness Directive AD 80-14-09 was issued on July 1, effective July 7, 1980. This AD is in addition to the General Aviation Airworthiness Alert (AC-43-16) which was published in the August 1979 issue, as stated in FAA's January 4 letter.

A-79-31, from the Federal Aviation Administration, August 20, 1980.—Letter is in further response to a recommendation stemming from the Antilles Air Boats, Inc., Gruman G-21A accident on September 2, 1978. The aircraft crashed into the ocean while en route from St. Croix to St. Thomas, V.I. The recommendation asked FAA to strengthen surveillance and enforcement program directed toward Part 135 operators to: (1) Provide adequate staffing for FAA facilities charged with surveillance of Part 135 operators; (2) assure uniform application of surveillance and enforcement procedures; (3) upgrade enforcement procedures and actions in order to provide a viable deterrent to future violations.

Last November 8 the Safety Board acknowledged FAA's response of August 9 (44 FR 50935, August 30, 1979) which reported issuance of FAA's Notice N8000.176, Increased Surveillance for Operators under new Part 135, dated April 25, 1979, and Order 1000.9C, Enforcement Policy, dated April 26, 1979. The Safety Board also noted that the Air Taxi Operations Handbook is being rewritten, that the Air Taxi Maintenance Handbook has been incorporated into the Air Carrier Maintenance Inspector's Handbook, and that the FAA Enforcement Handbooks are being combined into one. The Board noted that these actions, together with FAA's organizational changes placing responsibility of the air taxi program under the Air Division, are responsive to recommendation A-79-31. The Board therefore classified this recommendation and other Part 135

related recommendations in an "Open-Acceptable Action" status. The Board will be evaluating the effectiveness of these FAA actions to improve the safety of Part 135 operations during fiscal year 1980.

FAA's latest response reports that in addition to the previous actions outlined in the August 9, 1979, letter, Order 8430.1B, Inspection and Surveillance Procedures—Air Taxi Operators/Commuter Air Carriers and Commercial Operations, was transmitted through staff channels on March 18, 1980. FAA also reports completion of the following action: On May 16, Order 2150.3, Compliance and Enforcement Program, was issued. This order consolidates guidance material formerly contained in four separate orders. It is designed as a ready reference for use at all levels of the agency in the investigation, reporting, and legal processing of enforcement cases. FAA notes that all of its employees involved in the compliance and enforcement program are directed to read and become familiar with applicable provisions of this order.

A–79–60, from the Federal Aviation Administration, August 20, 1980.—Letter is in further response to a recommendation issued as a result of investigation into the Rocky Mountain Airways, Inc., deHavilland DHC–6 crash near Steamboat Springs, Colo., on December 4, 1978. The recommendation asked FAA to issue an operations bulletin directing all operations inspectors who are responsibile for the surveillance of 14 CFR 135.159 (new 14 CFR 135.165) is complied with uniformly in accordance with the official legal interpretation of this regulation by the FAA.

Safety Board letter of last November 27, commenting on FAA's response of October 12 (44 FR 61478, October 25, 1979), notes that FAA forwarded an interpretation of 14 CFR 135.159(a)(5) on September 14, 1979, to all Regional Flight Standards Division for distribution to FAA field offices. The Board also noted that FAA Order 8430.1A, Operations Inspection and Surveillance Procedures—Air Taxi Operators and Commercial Operators of Small Aircraft, is being rewritten to provide guidance on the revised 14 CFR Part 135 and a discussion on navigation equipment requirements. The Board states, however, that since the handbook will include other subjects related to Part 135 and will very likely take over 6 months to publish, it will not meet the intent and urgency of the recommendation. FAA was requested, in addition to actions already taken and proposed, to issue an operations bulletin as recommended; meanwhile, recommendation A–79–60 would be held in an "Open—Unacceptable Action" status.

FAA's August 20 letter reports that Order 8430.1B, Inspection and Surveillance Procedures—Air Taxi Operators/Commuter Air Carriers and Commercial Operators, was issued January 29, 1980, to revise Order 8430.1A. The revision provides guidance on the revised 14 CFR Part 135 and discusses navigation equipment requirements. A copy of the revised order is attached to FAA's letter.

A–79–68 and –69, from the Federal Aviation Administration, August 20, 1980.—Letter is in further response to recommendations also issued in connection with the above-referenced Rocky Mountain Airlines crash. The recommendations asked FAA to amend 14 CFR Parts 135 and 121 to require a survival training program for crewmembers that would include sea, desert, winter, and mountain survival (A–79–68), and to issue an Advisory Circular which outlines acceptable means of compliance with survival training requirements (A–79–69).

In its letter of January 4 commenting on FAA's response of last December 5 (44 FR 75539, December 20, 1979), the Safety Board notes that FAA indicated agreement, in principle, with the need for crewmember survival training. The Board also noted that rather than making a regulatory change, FAA plans to issue an Air Carriers Operations Bulletin (ACOB) within 90 days, which will require inspectors to assure that carriers include survival training, appropriate to route structure, in recurrent crewmember training. The Board held that since the ACOB will also include a suggested outline for a survival training program, FAA's response to recommendations A–79–68 and –69 would be classified as "Open—Acceptable Alternative Action" until the bulletin is issued and reviewed by the Safety Board's staff.

FAA's August 20 response reports issuance of a change to Order 8430.17, Change 15, to Air Carrier Operations Bulletin No. 8–80–2, Crewmember Survival Training; a copy was provided. The bulletin was revised to include Part 135 operators.

A–80–39 and –40, from the Federal Aviation Administration, August 20, 1980.—Response is to recommendations issued May 23 as a result of investigation of the crash of a Bell 47G–3–B–1 helicopter near Rico, Colo., August 17, 1979, in which the pilot and his passenger were killed. Investigation disclosed that tail rotor thrust was lost during flight because the drive gear (P/N 47–620–568–1) failed; the gear is located within the main rotor transmission. (See 45 FR 37917, June 5, 1980).

Recommendation A–80–39 asked FAA to issue an Airworthiness Directive to require replacement of bearing (P/N 47–620–605–1) with the improved bearing (P/N 47–620–929–1) at the next scheduled or unscheduled removal of the main transmission on Bell 47 model helicopters equipped with turbocharged engines. FAA concurs with this recommendation and reports that Airworthiness Directive action will be initiated to require this replacement.

With respect to recommendation A–80–40, which asked FAA to review and evaluate the need to replace the older bearing (P/N 47–620–605–1) with the improved bearing (P/N 47–620–929–1) on all Bell 47 model helicopters, FAA reports that a review of FAA files reveals failures of bearing (P/N 47–620–605–1) on normally aspirated helicopters as well as on turbocharged helicopters. FAA says that the AD action referenced above will include all BHT Model 47 series helicopters equipped with the bearing (P/N 47–620–605–1).

A–80–41 through –43, from the Federal Aviation Administration, August 20, 1980.—Response is to recommendations issued May 27 as a result of investigation of the crash of N68DE, a deHavilland DHC–6–200, at the Knox County Regional Airport, Rockland, Maine, on May 30, 1979. Following its investigation, the Safety Board concluded that the flightcrew deviated from standard instrument approach procedures and allowed the aircraft to descend below the published minimum decision height, without the runway environment in sight. The accident occurred during a night nonprecision instrument approach. (See 45 FR 37917, June 5, 1980.)

Recommendation A–80–41 asked FAA to publish a Maintenance Bulletin to alert FAA maintenance inspectors to the safety hazard associated with installation of mixed-color cockpit instrument lighting. The bulletin should require that the practice of installing mixed-color lighting be discontinued and that, where this practice has been implemented in the past, the lighting be changed to a uniform configuration. FAA concurs with this recommendation and reports that a maintenance bulletin concerning A–80–41 is being prepared.

Recommendation A–80–42 asked FAA to require that 14 CFR Part 135 operators emphasize crew coordination during recurrent training, especially when pilots are qualified for both single-pilot/autopilot and two-pilot operations, the requirements to be outlined in an

operator's approved training curriculum. In its response, FAA notes that § 135.329, Crewmember training requirements, does in fact include provisions which, in FAA's opinion, will result in effective crew coordination. Paragraph (e) of that section states:

(e) In addition to initial, transition, upgrade and recurrent training, *each* training program must provide ground and flight training, instruction, and practice necessary to ensure that *each* crewmember:

(1) Remain adequately trained and currently proficient for *each* aircraft, *crewmember position,* and type of operation in which the crewmember serves; and . . .

FAA believes that this regulatory requirement adequately satisfies recommendation A–80–42.

With respect to recommendation A–80–43, which called for upgrading operations manuals of 14 CFR Part 135 operators to assure standardization by clearly delineating operation duties and responsibilities of all required cockpit crewmembers, FAA states its belief that the vehicle to ensure standardization is the operator's training program. FAA notes that flight manuals currently specify crew duties, but are not considered an appropriate vehicle for imparting the concept of crew coordination. FAA directs the Board's attention to Order 8430.1B, Inspection and Surveillance Procedures Air Taxi Operators/Commuter Air Carriers and Commercial Operators. Paragraph 111 of this order, entitled, "Altitude Awareness and Flightcrew Procedures During Instrument Approaches," speaks specifically to cockpit vigilance during instrument approach operations, FAA states. FAA says its inspectors are required to ensure that these provisions are included in operators' training programs.

A–80–45, from the Federal Aviation Administration, August 20, 1980.—Response is to a recommendation issued May 28 following investigation of a fire aboard a Beech C–18S aircraft, caused by a ruptured aerosol can. The fire occurred while the aircraft was en route to Juneau, Alaska, July 13, 1979. The recommendation asked FAA to publish the circumstances of this incident in the Maintenance Notes Section of the General Aviation Airworthiness Alerts, stressing the fact that pilots and maintenance personnel share a responsibility to insure that there are no uncovered or unprotected electrical terminal studs exposed in the aircraft; also, the Maintenance Note should remind pilots of the danger involved when carrying pressurized aerosol cans in an aircraft. (See 45 FR 37918, June 5, 1980.)

FAA concurs with the Board's recommendation and has taken appropriate steps to include pertinent highlights of this incident in the August 1980 issue of the General Aviation Airworthiness alerts.

Safety Board Comments on FHWA Rulemaking

The Board continues to review and make comments on rulemaking proposals of other Federal agencies in a cooperative effort to promote transportation safety. In this connection, the Board on August 15 wrote to the Administrator of the Federal Highway Administration concerning recent proposals to develop safety standards and effective programs for Federal-State cooperative actions in attaining additional highway safety objectives.

The Board refers to its May 14, 1980, response to FHWA's notice of proposed rulemaking, "Design Standards for Highways," Docket No. 80–2. In that response the Board pointed out that the proposal did not comply with the Department of Transportation's Regulatory Policies and Procedures, Section 9, since the proposal had significant cost, safety, and benefit impact, but no regulatory analysis was performed by FHWA, nor was the basis for finding the proposal not significant set forth in the rulemaking proposal. Also, in the Board's review of FHWA's proposed rulemaking, "Skid Resistant Pavement Surface Design," Docket No. 77–16, Notice 2, the Board found that the rulemaking proposal was determined not to be significant, yet no basis for this determination was published as required by DOT Regulatory Policies and Procedures. The Board's July 17, 1980, response to this rulemaking proposal commented on this deficiency. To assist FHWA's review of this problem, the Board provided copies of its previous comments.

The Board's August 15 letter asks FHWA to evaluate present DOT procedures concerning the need for regulatory analyses and evaluations of rulemaking proposals. Also, the Board expressed the hope that FHWA will make it clear that the basis for determinations about the significance of future proposals should be made a part of notices of proposed rulemaking. The Board notes that positive action is needed to provide the public an opportunity to review the appropriateness of the determination, to remove the burden of making such analyses from persons responding to rulemaking proposals, and to observe the spirit of DOT regulatory policies and Executive Order 12044.

Note.—Single copies of Safety Board reports are available without charge, as long as limited supplies last. Copies of Board recommendation letters, responses and related correspondence are also provided free of charge. All requests for copies must be in writing, identified by recommendation or report number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of Safety Board reports may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer.

August 29, 1980.

[FR Doc. 80-27020 Filed 9-3-80; 8:45 am]

BILLING CODE 4910-58-M

NUCLEAR REGULATORY COMMISSION

Topical Report on Bibliography of Technical Guidance for Physical Protection Upgrade Rule Requirements for Fixed States; Issuance and Availability

The Nuclear Regulatory Commission has issued a topical report, NUREG–0509, "Bibliography of Technical Guidance for the Physical Protection Upgrade Rule Requirements for Fixed Sites," containing a listing of documents that support the upgraded requirements of the Commission's physical protection regulations with regard to physical security for fixed sites. Part I of NUREG–0509 defines and lists alphabetically the components or measures that may be used to establish physical security at fixed sites and identifies documents applicable to selection or use of such components or measures. Part II of the report lists all documents screened by the NRC staff in the course of developing the biblography.

This report is one of a collection of documents included in NUREG–0669, "The Fixed Site Physical Protection Upgrade Rule Guidance Compendium."

NUREG–0509 is available for inspection or copying for a fee at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. Copies may be purchased for $4.50 directly from NRC by sending check or money order payable to the Superintendent of Documents to the Director, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. GPO Deposit Account holders may charge their order by calling (301) 492–9530. Copies are also available for

purchase through the National Technical Information Service, Springfield, Virginia 22161.

(5 U.S.C. 552(a))

Dated Rockville, Maryland this 27th day of August 1980.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Standards Development.

[FR Doc. 80-26900 Filed 9-3-80; 8:45 am]

BILLING CODE 7590-01-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting

August 29, 1980

Pursuant to Sec. 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976), notice is hereby given that the Independent Areas Task Force (IATF) Subgroup on Ocean Operations and Services of the National Advisory Committee on Oceans and Atmosphere (NACOA) will meet Thursday and Friday, September 25 and 26, 1980. The meeting will be held in the 10th floor Conference Room (Room 1004) in the Watergate Building, 2600 Virginia Ave., NW., Washington, D.C.

Both sessions will convene at 9:00 a.m. and will adjourn at 4:30 p.m. All sessions will be open to the public.

NACOA has initiated a study to formulate national goals and objectives for the oceans in the decade of the 1980's and beyond. To support the conduct of this study, the Secretary of commerce has established IATF Subgroups for NACOA. The subgroups will be responsible for the preparation of preliminary recommendations in the areas of energy, fisheries, marine transportation, ocean minerals, ocean operations and services, pollution, and waste management.

This third meeting of the Ocean Operations and Services Subgroup will address issues relevant to Ship Operations and federally supported oceanographic ships and supporting facilities.

Briefings from the Office of Technology Assessment, National Science Foundation, Federal Oceanographic Fleet Coordination Council, National Oceanic and Atmospheric Administration and University National Oceanographic Laboratory System are planned.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairperson of the Ocean Operations and Services Subgroup, Dr. Robert M. White, in advance of the meeting. The Chairperson retains the prerogative to impose limits on the duration of oral statements and discussion. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the NACOA Executive Director, Mr. Steven N. Anastasion, or CDR Carl A. Moritz, the Staff Director for the Ocean Operations and Services Subgroup. The mailing address is: NACOA, 3300 Whitehaven Street, NW. (Suite 436, Page Building #1). Washington, DC 20235. The telephone number is (202) 653-7818.

Steven N. Anastasion,

Executive Director.

[FR Doc. 80-27067 Filed 9-3-80; 8:45 am]

BILLING CODE 3510-12-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1910]

Ohio; Declaration of Disaster Loan Area

Ashtabula County and adjacent counties within the State of Ohio constitute a disaster area as a result of damage caused by high winds, severe rainstorms and flooding which occurred on July 28, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 24, 1980, and for economic injury until the close of business on May 25, 1981, at: Small Business Administration, District Office, AJC Federal Building-Room 317, 1240 East Ninth Street, Cleveland, Ohio 44199.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 25, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-27065 Filed 9-3-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1913]

Ohio; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration of August 23, 1980, I find that Belmont, Columbiana, Guernsey, Jefferson and Muskingum Counties, and adjacent counties within the State of Ohio, constitute a disaster area because of damage resulting from severe storms and flooding beginning on or about August 11, 1980.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 23, 1980, and for economic injury until May 25, 1981, at:

Small Business Administration, District Office, 1240 East 9th Street, Room 317, Cleveland, Ohio 44199.

Small Business Administration, District Office, 85 Marconi Boulevard, Columbus, Ohio 43215.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 27, 1980.

Harold A. Theiste,

Acting Administrator.

[FR Doc. 80-27064 Filed 9-3-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 5566]

South Dakota; Declaration of Disaster Loan Area

Lawrence County and adjacent counties within the State of South Dakota constitute an area of Economic Injury as a result of the destruction of the Homestake Forest Products sawmill in Spearfish, S.D. on February 19, 1980, and the subsequent decision not to rebuild the mill. Eligible small businesses which have been directly impacted by the destruction and loss of the sawmill may file applications for Economic Injury Disaster Loans until the close of business on May 14, 1981 at: Small Business Administration, Branch Office, 515 9th St., Room 246, Rapid City, South Dakota 57701.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program No. 59008)

Dated: August 14, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-27066 Filed 9-3-80; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council; Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of Fresno, California, will hold a public meeting at 9:00 a.m., Friday, September 26, 1980, at the Holiday Inn, 5090 E. Clinton Avenue, Fresno, California, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Peter J. Bergin, District Director, U.S. Small Business Administration, 1229 N Street, Fresno, California 93712—(209) 487-5791.

Dated: August 27, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-27083 Filed 9-3-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE
Office of the Secretary

[Public Notice 722]

Fishery Conservation and Management Act of 1976; Applications for Permits to Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (P.L. 94-265) as amended (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that a notice of receipt of all applications for such permits, a summary of the contents of such applications, and the names of the Regional Fishery Management Councils that receive copies of these applications, be published in the Federal Register.

Individual vessel applications for fishing in 1980 have been received from Taiwan, and the Governments of Japan, Korea, and Poland, and are summarized herein.

If additional information regarding any applications is desired, it may be obtained from: Permits and Regulations Division (F37), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, (Telephone: (202) 634-7432).

Dated: August 22, 1980.

James A. Storer,

Director, Office of Fisheries Affairs.

Fishery codes and designation of regional councils which review application for individual fisheries are as follows:

Code	Fishery	Regional council
ABS	Atlantic billfishes and sharks	New England, mid-Atlantic, south Atlantic, Gulf of Mexico, and Caribbean.
BSA	Bering Sea and Aleutian Islands, trawl, longline and herring gillnet	North Pacific.
CRB	Crab (Bering Sea)	North Pacific.
GOA	Gulf of Alaska	North Pacific.
NWA	Northwest Atlantic	New England and mid-Atlantic.
SMT	Seamount groundfish (Pacific Ocean)	Western Pacific.
SNA	Snails (Bering Sea)	North Pacific.
WOC	Washington, Oregon, California trawl	Pacific.
PBS	Pacific billfish and sharks	Western Pacific.

Activity codes specify categories of fishing operations applied for are as follows:

Activity code and fishing operations

1—Catching, processing, and other support.
2—Processing and other support only.
3—Other support only.

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Japan:			
Yasu Maru NR 26, longliner	JA-80-1277 (Revised)	ABS	1
Masa Maru NR 21, longliner	JA-80-1278 (Revised)	ABS	1
Hoyo Maru NR 8, longliner	JA-80-1397	ABS	1
Shofuku Maru NR 28, longliner	JA-80-1398	ABS	1
Goyo Maru, longliner	JA-80-1399	ABS	1
Tsukasa Maru NR 21, longliner	JA-80-1400	ABS	1
Seiko Maru NR 28, longliner	JA-80-1401	ABS	1
Shinei Maru NR 26, longliner	JA-80-1402	ABS	1
Kuroshio Maru NR 8, longliner	JA-80-1403	ABS	1
Manyo Maru NR 8, longliner	JA-80-1404	ABS	1
Homare Maru NR 22, longliner	JA-80-1405	ABS	1
Azuma Maru NR 36, longliner	JA-80-1406	ABS	1
Azuma Maru NR 38, longliner	JA-80-1407	ABS	1
Azuma Maru NR 58, longliner	JA-80-1408	ABS	1
Shoshin Maru NR 85, longliner	JA-80-1409	ABS	1
Daito Maru NR 38, longliner	JA-80-1410	ABS	1
Gosi Maru NR 18, longliner	JA-80-1411	ABS	1
Poland:			
Korwin, stern trawler	PL-80-0026	NWA	1
Admiral Arciszewski, stern trawler	PL-80-0061	NWA	1
Miedwie, stern trawler	PL-80-0069	NWA	1
Amaral, stern trawler	PL-80-0046	WOC, GOA, BSA	1
Rekin, stern trawler	PL-80-0060	WOC, GOA, BSA	1
*Orcyn**, stern trawler	PL-80-0077	WOC, GOA, BSA	*1 and 3
Korea:			
Nam Pyung NR 1, longliner	KS-80-3026	PBS	1
Nam Pyung NR 5, longliner	KS-80-3027	PBS	1
Nam Pyung NR 8, longliner	KS-80-3028	PBS	1
Nam Pyung NR 31, longliner	KS-80-3029	PBS	1
Nam Pyung NR 32, longliner	KS-80-3030	PBS	1
Heung Yang Ho,** factory ship	KS-80-0006	BSA, GOA	**3
Kyung Yang Ho,** factory ship	KS-80-0065	BSA, GOA	**3
Gae Cheog Ho NR 2,** cargo/transport vessel	KS-80-0090	BSA, GOA	**3
Taiwan:			
Sun Fuh, longliner	TW-80-0060	PBS	1
NR 12 Tah Yuan, longliner	TW-80-3000	PBS	1
Der An NR 1, longliner	TW-80-3001	PBS	1
Sun Der NR 1, longliner	TW-80-3002	PBS	1
Fu Yuan NR 3, longliner	TW-80-3003	PBS	1
Yu Kuo NR 11, longliner	TW-80-3004	PBS	1

Nation/vessel name/vessel type	Application No.	Fishery	Activity
Yen Horng NR 1, longliner	TW-80-3005	PBS	1
Chyau Tai NR 11, longliner	TW-80-3006	PBS	1
Chiau Long NR 22, longliner	TW-80-3007	PBS	1
Chiau Long NR 12, longliner	TW-80-3008	PBS	1
Chyau Tai NR 10, longliner	TW-80-3009	PBS	1
Chiao Ying NR 21, longliner	TW-80-3010	PBS	1
Sheng Yu NR 7, longliner	TW-80-3011	PBS	1
Ying Kuo Shiang NR 7, longliner	TW-80-3012	PBS	1
Ying Ruey Shiang NR 3, longliner	TW-80-3013	PBS	1
Ying Yih Shiang NR 22, longliner	TW-80-3014	PBS	1
Ying Yih Shiang, longliner	TW-80-3015	PBS	1
Ruey Fong NR 3, longliner	TW-80-3016	PBS	1
Chiau Loong NR 11, longliner	TW-80-3017	PBS	1
Ruey Tzeng NR 1, longliner	TW-80-3018	PBS	1
Sur Ton NR 1, longliner	TW-80-3019	PBS	1
Sur Ton NR 3, longliner	TW-80-3020	PBS	1
Fong Ta NR 11, longliner	TW-80-3021	PBS	1
Fong Kuo NR 203, longliner	TW-80-3022	PBS	1
Fong Kuo NR 206, longliner	TW-80-3023	PBS	1
Fwu Chuen NR 1, longliner	TW-80-3024	PBS	1
Ta Chuen NR 1, longliner	TW-80-3025	PBS	1
Shun Chuen NR 1, longliner	TW-80-3026	PBS	1
Hai Hou, longliner	TW-80-3027	PBS	1
Yih Lien NR 3, longliner	TW-80-3028	PBS	1
Hsieh Chin Sheng NR 7, longliner	TW-80-3029	PBS	1
Sheh Chin Hin, longliner	TW-80-3030	PBS	1
Hsieh Chin Jung, longliner	TW-80-3031	PBS	1
Chyan Chih Yih, longliner	TW-80-3032	PBS	1
Chyan Chih Cheng, longliner	TW-80-3033	PBS	1
Chin Long Cheng, longliner	TW-80-3034	PBS	1
Li Shin NR 1, longliner	TW-80-3035	PBS	1
NR 1 Hui Ching, longliner	TW-80-3036	PBS	1
Swe Hoang NR 31, longliner	TW-80-3037	PBS	1
Lien Ho NR 1, longliner	TW-80-3038	PBS	1
Yih Shin, longliner	TW-80-3039	PBS	1
Sheh Ying NR 3, longliner	TW-80-3040	PBS	1
Sheh Fu NR 3, longliner	TW-80-3041	PBS	1
Yung Hsing, longliner	TW-80-3042	PBS	1
Hui Fah, longliner	TW-80-3043	PBS	1
Yih Hsing, longliner	TW-80-3044	PBS	1
Horng Hsing, longliner	TW-80-3045	PBS	1
Yu Hsing, longliner	TW-80-3046	PBS	1
Chin Shing NR 1, longliner	TW-80-3047	PBS	1
NR 3 I Ta Cheng, longliner	TW-80-3048	PBS	1
Yung Lo, longliner	TW-80-3049	PBS	1
Yung Ti, longliner	TW-80-3050	PBS	1
Jin Tah NR 16, longliner	TW-80-3051	PBS	1
Hai I NR 1, longliner	TW-80-3052	PBS	1
Chung Sha NR 1, longliner	TW-80-3053	PBS	1
Chin Gen Food NR 3, longliner	TW-80-3054	PBS	1
Ta Shen NR 1, longliner	TW-80-3055	PBS	1
Kuo Zong NR 1, longliner	TW-80-3056	PBS	1
Shin Yuan Seng NR 11, longliner	TW-80-3057	PBS	1
Kuo Zong NR 12, longliner	TW-80-3058	PBS	1
Kuo Zong NR 3, longliner	TW-80-3059	PBS	1
Kuo Youn NR 72, longliner	TW-80-3060	PBS	1
Yung Chang FU NR 31, longliner	TW-80-3061	PBS	1
Tong Sheng, longliner	TW-80-3062	PBS	1
Tong Sheng NR 11, longliner	TW-80-3063	PBS	1
Tong Chou NR 7, longliner	TW-80-3064	PBS	1
Tong Hui NR 32, longliner	TW-80-3065	PBS	1
Shin Yuan Seng NR 21, longliner	TW-80-3066	PBS	1
Shin Yuan Seng NR 22, longliner	TW-80-3067	PBS	1
Yung Chang Yu NR 11, longliner	TW-80-3068	PBS	1
Ho Tai NR 11, longliner	TW-80-3069	PBS	1
Chin Woei NR 61, longliner	TW-80-3070	PBS	1
Min Hong NR 31, longliner	TW-80-3071	PBS	1
Chin Huey NR 22, longliner	TW-80-3072	PBS	1
Chin Huey NR 21, longliner	TW-80-3073	PBS	1
Chin Min Man, longliner	TW-80-3074	PBS	1
NR 3 Chien Chia, longliner	TW-80-3075	PBS	1
NR 11 Kuo Swang, longliner	TW-80-3076	PBS	1
NR 31 Feng HWA, longliner	TW-80-3077	PBS	1
NR 1 Yu Wang, longliner	TW-80-3078	PBS	1
NR 1 Man Seng, longliner	TW-80-3079	PBS	1
Lien Chi Tsai, longliner	TW-80-3080	PBS	1
NR 12 Chien Chung, longliner	TW-80-3081	PBS	1
NR 1 Ho Ying, longliner	TW-80-3082	PBS	1
NR 1 Ho Mei, longliner	TW-80-3083	PBS	1
NR 2 Ho Tai, longliner	TW-80-3084	PBS	1
NR 16 Chyau Shyang, longliner	TW-80-3085	PBS	1
NR 1 Fu Pong, longliner	TW-80-3086	PBS	1
NR 11 Tah Yuan, longliner	TW-80-3087	PBS	1
NR 1 Ho Tai, longliner	TW-80-3088	PBS	1
Tong Mong NR 61, longliner	TW-80-3089	PBS	1

*Vessel desires to conduct a directed fishery in GOA and BSA, and a combined joint venture and directed fishery in WOC. This joint venture fishery would involve the Polish company "Rybex", and Fishermen's Marketing Association of Eureka, California.

**Vessels desire to participate in the KMIDC/ Fish Processors Association of Vancouver, Washington, joint venture.

[FR Doc. 80-27007 Filed 9-3-80; 8:45 am]

BILLING CODE 4710-09-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amending the Import Restraint Level for Certain Cotton Textile Products From the Republic of Singapore

August 29, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Applying swing to the level of restraint established for Category 347/348 (men's and boys', women's, girls' and infants' cotton trousers) produced or manufactured in Singapore and exported during the twelve-month period which began on January 1, 1980, increasing the overall level to 528,675 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), and August 12, 1980 (45 FR 53506).)

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21 and 22, 1978 as amended, between the Governments of the United States and the Republic of Singapore; provides that specific ceilings may be increased by designated percentages (swing), at the request of the Government of the Republic of Singapore, the level of restraint is being increased to 528,675 dozen for Category 347/348.

EFFECTIVE DATE: August 29, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On December 20, 1979, there was published in the Federal Register (44 FR 75440) a letter dated December 14, 1979, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commisioner of Customs, which established ceilings for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Singapore, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the twelve-month level of restraint previously established for cotton textile products in Category 347/348 to the designated amount.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

August 29, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 14, 1979 from the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Singapore.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1972, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21 and 22, 1978, as amended, between the Governments of the United States and the Republic of Singapore; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on August 29, 1980, and for the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 347/348, produced or manufactured in Singapore, in excess of the following adjusted level of restraint:

Category	Adjusted 12-mo level of restraint [1]
347/348	528,675 dozen of which not more than 507,997 dozen shall be in Category 347 and not more than 203,032 dozen shall be in Category 348.

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1979.

The action taken with respect to the Government of the Republic of Singapore and with respect to imports of cotton textile products from Singapore has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements

[FR Doc. 80-28962 Filed 9-3-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Alachua County, Fla.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement is being prepared for a proposed highway project in Alachua County, Florida.

FOR FURTHER INFORMATION CONTACT: J. W. Caldwell, District Engineer, Federal Highway Administration, Post Office Box 1079, Tallahassee, Florida 32301, Telephone: (904) 224-8111.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Florida Department of Transportation (FDOT), is preparing an Environmental Impact Statement (EIS) for a proposal to improve 39th Avenue (S.R. 222, S.R. 232) in Alachua County, Florida. The proposed improvement would involve the reconstruction of existing 39th Avenue in the City of Gainesville from the intersection of I-75 east to the entrance to the Gainesville Municipal Airport for a distance of approximately eleven miles. Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand.

Alternatives under consideration include (1) taking no action; (2) widening the existing two-lane highway to four and six lanes; (3) using alternate travel modes. Incorporated into and studied with the built alternative will be design and alignment variations.

Letters describing the proposed action and soliciting comments have already been sent, or will be sent to the appropriate Federal, State, local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. A public involvement plan has been developed for the subject study. This plan provides for a public participation

committee consisting of property owners, local leaders, city and county officials. A series of public participation meetings have been held for the proposed improvement. In addition, a public hearing will be held. Public notice will be given of the time and place of the public hearing. The draft EIS will be made available for public and agency review and comment prior to the public hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: August 25, 1980.

P. E. Carpenter,

Division Administrator, Tallahassee, Fla.

[FR Doc. 80-27014 Filed 9-3-80; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Duval County, Fla.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Jacksonville, Duval County, Florida.

FOR FURTHER INFORMATION CONTACT: J. W. Caldwell, District Engineer, Federal Highway Administration, Post Office Box 1079, Tallahassee, Florida 32301, Telephone: (904) 224-8111.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Florida Department of Transportation (FDOT), is preparing an Environmental Impact Statement (EIS) for a proposal to replace the Acosta Bridge over the St. Johns River in Duval County, Florida. The proposed improvement would involve the replacement of the existing structure. In addition, the proposed action would include the approach connectors between I-95 to the south and the downtown street system in the vicinity of Bay Street, for a distance of approximately 1.0 mile. Significant elements of the study will consist of the coordination of the Acosta Bridge corridor with the downtown redevelopment and street system and the evaluation of including a proposed Downtown People Mover (DPM) facility as a part of a joint-use river-crossing structure. The proposed improvements are necessary to relieve congestion, improve safety and satisfy the anticipated growth in transportation in the community.

Alternatives under consideration include (1) taking no action; (2) replacement of the existing structure with the Downtown People Mover facility; (3) replacement of the existing structure without the Downtown People Mover facility; (4) construction of a fixed span structure; and (5) construction of a movable span structure.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies; private organizations; and citizens who have previously expressed interest in this proposal. A Public Involvement Plan will be developed which will include a Public Participation Committee made up of property owners, local leaders, city and county officials. It is expected that FDOT personnel will participate in public involvement activities for the DPM study, while Jacksonville Transportation Authority (JTA) personnel will likewise participate in public involvement activities for the Acosta Bridge Study. A series of public information meetings will be held for the proposed improvement. In addition, a public hearing will be conducted. Public notice will be given of the time and place of the public meetings and hearing. The draft EIS will be made available for public and agency review and comment prior to the public hearing. A formal scoping meeting will be held to ensure that all issues of significance are addressed. All appropriate governmental agencies will be invited to attend this meeting.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: August 25, 1980.

P. E. Carpenter,

Division Administrator, Tallahassee, Fla.

[FR Doc. 80-27006 Filed 9-3-80; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. IP80-12; Notice 1]

Budd Co.; Receipt of Petition for Determination of Inconsequential Noncompliance

The Budd Company of Detroit, Michingan has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.121, Motor Vehicle Safety Standard No. 121, *Air Brake Systems.* The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the Act (15 U.S.C. 1417) and does not represent any agency decision or exercise of judgement concerning the merits of the petition.

Paragraph S5.2.1.1 of Standard No. 121 requires that "a reservoir shall be provided that is capable, when pressurized to 90 p.s.i. of releasing the vehicle's parking brake at least once and that is unaffected by a loss of air pressure in the service brake system." Budd manufactured in April 1980 a total of 99 container chassis equipped with a brake valve system manufactured by the Berg Manufacturing Company, known as the SERV system which Budd believes "probably" does not comply with S5.2.1.1.

Specifically, Budd comments that S5.2.1.1 represents the state-of-the-art when Standard No. 121 was formulated. It imposed a requirement that air brake vehicles be equipped with emergency and parking brakes which are not affected by loss of the vehicle air supply. The best available solution was the adoption of spring brake chambers in tandem with air chambers, so designed that loss of air pressure to the air chambers resulted in spring energy being applied to the vehicle brakes. However, there was concern that vehicles could become immobilized as a result of air pressure failure. S5.2.1.1 provided the solution, but is silent as to how its stored energy must be applied. Systems currently in use require an outside source of air pressure in the signal (service) line to utilize the reservoir's pressure to release the spring brakes. The SERV system does not have a protected reservoir on the trailer but releases the spring brakes by pressurizing the supply (emergency) line of the trailer. Comments Budd:

> "This is a distinction without a real difference since *both* systems require a source of outside air pressure to release spring brakes with the variation being the particular line which must be pressurized. There is no significant difference in the time required with either system."

Budd also argues that the SERV system may also represent an improvement in providing shorter full emergency stops, because the air-applied brakes offer a greater application force than spring-applied brakes.

Interested persons are invited to submit written data, views, and arguments on the petition of The Budd Company described above. Comments

should refer to the Docket number and be submitted to Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W. Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the Federal Register pursuant to the authority indicated below.

Comment closing date: October 6, 1980.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on August 27, 1980.

Carl E. Nash,

Acting Associate Administrator for Rulemaking.

[FR Doc. 80-26964 Filed 9-3-80; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP80-13; Notice 1]

Lafer S.A.; Receipt of Petition for Determination of Inconsequential Noncompliance With Glazing Materials Regulations

Lafer S.A. of Sao Paulo Brazil has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.205, *Glazing Materials,* on the basis that it is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S6.4 of Standard No. 205 requires that each manufacturer who cuts a section of glazing material for use in a motor vehice shall mark the material to identify it. Lafter's United States representative, Lafer Auto Sales, imported 50 motor vehicle kits in 1979 and 1980 whose "side wing, passenger and vent windows" did not carry the required AS-2 marking and the manufacturer's assigned identification number. Lafer argues that the noncompliance is inconsequential as the glazing, other than the omitted marking, comply with all requirements of Standard No. 205. A certificate of compliance from the glazing manufacturer accompanied the petition.

Interested persons are invited to submit written data, views and arguments on the petition of Lafer Auto Sales, Inc. described above. Comments should refer to the docket number and be submitted to: Docket Section, Room 5108, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the Federal Register pursuant to the authority indicated below.

The engineer and attorney primarily responsible for this notice are Ed Jettner and Taylor Vinson respectively.

Comment closing date: October 6, 1980.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on August 27, 1980.

Carl E. Nash,

Acting Associate Administrator for Rulemaking.

[FR Doc. 80-26965 Filed 9-3-80; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1980 Rev., Supp. No. 5]

Indiana Lumbermens Mutual Insurance Co.; Surety Companies Acceptable on Federal Bonds; Correction

The underwriting limitation for Indiana Lumbermens Mutual Insurance Company was listed at 45 FR 44506 [July 1, 1980] as $782,00. That underwriting limitation is hereby corrected to $1,069,000.

Federal bond-approving officers should annotate their reference copies of Treasury Circular 570, 1980 Revision, at page 44506 to reflect this addition.

Questions concerning this correction notice may be directed to the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226. Telephone [202] 634-5010.

Dated: August 29, 1980.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 80-27071 Filed 9-3-80; 8:45 am]

BILLING CODE 4810-35-M

Internal Revenue Service

Privacy Act of 1974; Revisions of Several Systems of Records

AGENCY: Department of the Treasury, Internal Revenue Service.

ACTION: Revised systems of records.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), the Department of the Treasury, Internal Revenue Service, gives notice of the effective date of the proposed revisions to Treasury/IRS 44.003—Appeals Division Case Data, and Treasury/IRS 90.016—Reports and Information Retrieval Activity Computer and Microfilm Records, and the elimination of Treasury/IRS 44.002—Appeals Officer Inventory and Unit Time Report System. The proposed revisions to these systems were last published June 13, 1980 in 45 FR 40272. The comment period expired on July 14, 1980. No comments were received and the 60-day OMB advance notice requirement has been meet.

EFFECTIVE DATE: September 4, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Bruce Conyne, Chief, Budget and Systems Branch, Office of Director of Appeals, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (202) 566-6131.

Mr. Allen E. Kibat, Chief, Planning Analysis and Operations Branch, Office of Director of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (202) 566-3455.

Dated: August 22, 1980.

W. J. McDonald,

Assistant Secretary (Administration).

[FR Doc. 80-26943 Filed 9-3-80; 8:45 am]

BILLING CODE 4830-01-M

Office of the Secretary

[Public Debt Series—No. 27-80]

Treasury Notes; Series F-1985; Interest Rate

August 28, 1980.

The Secretary announced on August 27, 1980, that the interest rate on the notes designated Series F-1985, described in Department Circular—

Public Debt Series—No. 27–80, dated August 20, 1980, will be 11¾ percent. Interest on the notes will be payable at the rate of 11¾ percent per annum.

Supplementary Statement: The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 80-26950 Filed 9-3-80; 8:45 am]

BILLING CODE 4810-40-M

PRESIDENTIAL COMMISSION ON WORLD HUNGER

Privacy Act of 1974; Revocation and Transfer of Systems of Records

Pursuant to the provisions of the Privacy Act of 1974, Public Law 93–579, 5 U.S.C. 552a, the Presidential Commission on World Hunger published in the Federal Register (43 FR 56344) notices of the existence of the following systems of records subject to Privacy Act: PCWH–1, Payroll Records; PCWH–2, General Financial Records; and PCWH–3, General Informal Personnel Files. The Commission terminated operations on August 31, 1980, and the above systems of records are revoked as of that date.

Following is a summary of the disposition of the Commission's systems of records:

PCWH–1

System name: Payroll Records—Presidential Commission on World Hunger: to be retained by the General Services Administration, National Payroll Center, for use in concluding administrative operations of the Commission as part of GSA system of records, Defunct Agency Records, GSA/OAD–36.

PCWH–2

System name: General Financial Records—Presidential Commission on World Hunger: to be retained by the External Services Branch, National Capital Region, for concluding administrative operations of the Commission as part of the GSA system of records, Defunct Agency Records, GSA/OAD–36.

PCWH–3

System name: General information Personnel Files—Presidential Commission on World Hunger: to be destroyed.

Daniel E. Shaughnessy,

Executive Director.

[FR Doc. 80-27096 Filed 9-3-80; 8:45 am]

BILLING CODE 6820-97-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 173
Thursday, September 4, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, September 12, 1980.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1642-80 Filed 9-2-80; 11:38 am]

BILLING CODE 6351-01-M

2

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE.

TIME AND DATE: 2:30 p.m., Tuesday, September 9, 1980.

PLACE: Offices of the Board of Governors of the Federal Reserve System, Board Building, C Street entrance between 20th and 21st Streets, N.W. Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Use of premiums, finders fees, and the payment of interest in merchandise by depository institutions. (Proposal previously issued for public comment, Docket No. D-0004)

2. Ceiling rates on interest-bearing transaction accounts. (Proposal previously issued for public comment, Docket No. D-0011)

3. Deposit rate ceilings on 14-29 day time deposits.

4. Any agenda items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board of Governors of the Federal Reserve System's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Public Information Officer (202) 452-3204.

Dated: September 2, 1980.

Norman R. V. Bernard,

Executive Secretary of the Committee.

[S-1644-80 Filed 9-3-80; 4:12 pm]

BILLING CODE 6210-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 12:30 p.m. on Thursday, August 28, 1980, the Board of Directors of the Federal Deposit Insurance Corporation met by telephone conference call to consider certain matters which it determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Issac (Appointive), concurred in by Director John G. Heimann (Comptroller of the Currency), required its consideration on less than seven days' notice to the public.

The Board met in closed session to consider the following matters:

Application of Sun Bank and Trust Company of St. Petersburg, St. Petersburg, Florida, for consent to establish a branch on the south side of East Bay Drive, approximately 600 feet west of its intersection with Belcher Road, Unincorporated Pinellas County (P.O. Largo), Florida.

Application of Bank of Guam, Agana, Guam, for consent to purchase the assets of and assume the liability to pay deposits made in the Majuro and Truk Offices, located in the United States Trust Territory of the Pacific Islands, and the Saipan Office, plus two limited-service facilities operated in conjunction with the Saipan Office, located in the Commonwealth of the Northern Mariana Islands, of Bank of America National Trust and Savings Association, San Francisco, California, and for consent to establish these offices as branches of Bank of Guam.

Recommendation regarding the proposed election of an officer of First Pennsylvania Bank N.A., Bala-Cynwyd, Pennsylvania.

In considering the matters in a closed session, the Board determined, by the same majority vote, that the public interest did not require consideration of the matters in a meeting open to public observation and that the matters could be considered in a closed meeting pursuant to subsection (c)(4), (c)(6), and (c)(8) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), and (c)(8).

The Board then met in open session to consider the following matters:

Recommendation regarding the submission of periodic reports by First Pennsylvania Bank N.A., Bala-Cynwyd, Pennsylvania.

Recommendations regarding the determination of Material Subsidiaries of First Pennsylvania Bank N.A., Bala-Cynwyd, Pennsylvania, and First Pennsylvania Corporation, Philadelphia, Pennsylvania, and waiver of certain reporting requirements.

The Board further determined, by the same majority vote, that no earlier notice of the meeting was practicable.

Dated: August 28, 1980.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Assistant Executive Secretary.

[S-1636-80 Filed 9-2-80 10:35 am]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:30 a.m. on Monday, September 8, 1980, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Application for consent to establish a branch:

Scotiabank de Puerto Rico, San Juan (Hato Rey), Puerto Rico, for consent to establish a branch in the Iturregui Plaza, Km. 5.2 65th Infantry Road, Rio Piedras, Puerto Rico.

Application for consent to merge and establish branches:

Branch Banking and Trust Company, Wilson, North Carolina, an insured State nonmember bank, for consent to merge, under its charter and title, with Edgecombe Bank & Trust Company, Tarboro, North Carolina, and for consent to establish the six offices of Edgecombe Bank & Trust Company as branches of the resultant bank.

Request for exemption pursuant to section 348.4(b)(5) of the Corporation's rules and regulations entitled "Management Official Interlocks":

Houston First American Savings Association, Houston, Texas.

Request pursuant to section 19 of the Federal Deposit Insurance Act for consent to service of persons convicted of offenses involving dishonesty or a breach of trust as directors, officers, or employees of insured banks:

Names of person and of bank authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,450-L—Guaranty Bank & Trust Company, Chicago, Illinois.
Case No. 44,456-L—Franklin National Bank, New York, New York.
Memorandum and Resolution re: Northern Ohio Bank, Cleveland, Ohio.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6); (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: August 29, 1980.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Assistant Executive Secretary.

[S-1639-80 Filed 9-2-80; 10:36 am]

BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 11:00 a.m. on Monday, September 8, 1980, to consider the following matters:

Disposition of minutes of previous meetings.

Recommendation with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Schall, Boudreau & Gore, San Diego, California, in connection with the receivership of United States National Bank, San Diego, California.

Memorandum and Resolution re: Conforming Amendments to Part 335 of the Corporation's rules and regulations (Required by Section 12 (i) of the Securities Exchange Act of 1934) and simplification of regulations.

Memorandum and Resolution re: Policy Statement on Legal Fees and Other Organizational Expenses.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will held in Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: August 29, 1980.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Assistant Executive Secretary.

[S-1640-80 Filed 9-2-80; 10:37 am]

BILLING CODE 6714-01-M

6

FEDERAL ELECTION COMMISSION:

PREVIOUSLY ANNOUNCED DATE AND TIME: Wednesday, September 3, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

FEDERAL REGISTER NO. 1615.

CHANGE IN MEETING: The following matter has been added to this closed session:

Audit matter.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, September 4, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

FEDERAL REGISTER NO. 1615.

CHANGE IN MEETING: The following matter has been added to this open session:

Interim audit report—International Ladies Garment Union.

DATE AND TIME: Tuesday, September 9, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Personnel. Litigation. Audit and Compliance Thresholds. Audits.

DATE AND TIME: Wednesday, September 10, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Any matters not concluded on September 9, 1980.

DATE AND TIME: Thursday, September 11, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (Fifth Floor).

STATUS: This meeting will be opened to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings.
Correction and approval of minutes.
Certifications.
Advisory opinions: Draft AO 1980-92—William McNally, President, Voter Registration Program; Draft AO 1980-97—T. Timothy Ryan, Jr., Presidential Transition Trust.
Contributions from unregistered committees.
Computer produced schedules of itemized receipts and disbursements.
1980 election and related matters.
Appropriations and budget, Budget Execution Report.
Pending legislation.
Classification actions.
Routine adminsitrative matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, Telephone: 202–523–4065.

Marjorie W. Emmons,

Secretary to the Commission.

[S-1647-80 Filed 9-2-80; 3:59 pm]

BILLING CODE 6715-01-M

7

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45, Issue #171. Page 55296, September 2, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: September 4, 1980.

PLACE: 1700 G. Street NW., Sixth Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall, (202–377–6677).

CHANGES IN THE MEETING:

The following item has been withdrawn from the agenda for the open meeting. It will now be considered at the closed meeting immediately following it.

Permission to Organize a New Federal Association—Henry E. Fultz, *et al.*, Bakersfield, California.

No. 387, September 2, 1980.

[S-1645-80 Filed 9-2-80; 3:29 pm]

BILLING CODE 6720-01-M

8

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: August 28, 1980, 45 FR 57646.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: September 3, 1980, 9 a.m.

CHANGE IN THE MEETING: Addition of the following item to the open session:

5. Docket No. 69–57—Agreement No. T–2336—New York Shipping Association Cooperative Working Arrangement—Reopening of Proceeding.

[S-1641-80 Filed 9-2-80; 10:39 am]

BILLING CODE 5730-01-M

9

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Monday, September 8, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: August 29, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-1643 Filed 9-2-80; 1:34 pm]

BILLING CODE 6210-01-M

10

[F.C.S.C. Meeting Notice No. 8–80]

FOREIGN CLAIMS SETTLEMENT COMMISSION

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified as follows:

Date and Time

Wed., Sept. 3, 1980 at 10:30 a.m.—Consideration of decisions involving claims of American Citizens against the German Democratic Republic and the People's Republic of China.

Wed., Sept. 10, 1980 at 10:30 a.m.—Consideration of decisions involving claims of American Citizens against the German Democratic Republic and the People's Republic of China.

Wed., Sept. 17, 1980 at 10:30 a.m.—Consideration of decisions involving claims of American Citizens against the German Democratic Republic and the People's Republic of China.

Wed., Sept. 24, 1980 at 10:30 a.m.—Consideration of decisions involving claims of American Citizens against the German Democratic Republic and the People's Republic of China.

Oral hearings on objections to decisions issued under the German Democratic Republic Claims Program.

Tue., Sept. 16, 1980 at 10:00 a.m.—G–3286—Harry H. Livingston.

Tue., Sept. 16, 1980 at 10:00 a.m.—G–1360—Waldtraut S. Lavroff.

Tue., Sept. 16, 1980 at 10:00 a.m.—G–1483—Axel S. Golde.

Tue., Sept. 16, 1980 at 10:00 a.m.—G–1527—Arnold Golde.

Tue., Sept. 16, 1980 at 10:00 a.m.—G–1577—Hanna G. Silberberg.

Tue., Sept. 16, 1980 at 10:00 a.m.—G–1304—E. Margarete Rabe.

Tue., Sept. 16, 1980 at 10:00 a.m.—G–1310—Kurt Sachs.

Tue., Sept. 16, 1980 at 10:00 a.m.—G–1667—Ilse Stenos.

Tue., Sept. 16, 1980 at 10:00 a.m.—G–2095—Eric Sachs.

Tue., Sept. 16, 1980 at 2:00 p.m.—G–2682—Louise Gans, Adele Gruner.

Tue., Sept. 16, 1980 at 2:00 p.m.—G–1764—Emmy Lenore Podietz.

Tue., Sept. 16, 1980 at 2:00 p.m.—G–2571—Dr. Robert H. Cane.

Tue., Sept. 16, 1980 at 2:00 p.m.—G–3838—Ruth Colton.

Tue., Sept. 16, 1980 at 2:00 p.m.—G–3876—Morris Gibbs.

Tue., Sept. 16, 1980 at 2:00 p.m.—G–1576—Willy Sundheimer.

Thurs., Sept. 18, 1980 at 10:00 a.m.—G–0610—Reni Seidenwurm.

Thurs., Sept. 18, 1980 at 10:00 a.m.—G–1653—Gerhard H. Banse.

Thurs., Sept. 18, 1980 at 10:00 a.m.—G–1901, G–2576—Jacob Berger.

Thurs., Sept. 18, 1980 at 10:00 a.m.—G–2576).

Thurs., Sept. 18, 1980 at 10:00 a.m.—G–2402—Martina E. Greenwood.

Thurs., Sept. 18, 1980 at 10:00 a.m.—G–1990—Antonina Wenzkowsky-Venckauskiene Luksis.

Thurs., Sept. 18, 1980 at 2:00 p.m.—G–1287—Werner C. Von Clemm.

Thurs., Sept. 18, 1980 at 2:00 p.m.—G–1058—J. Walter Loeb.

Thurs., Sept. 18, 1980 at 2:00 p.m.—G–2147—Bernard Loeb.

Thurs., Sept. 18, 1980 at 2:00 p.m.—G–0476—Edith R. Pinkuss.

Thurs., Sept. 18, 1980 at 2:00 p.m.—G–1139—Hildegard Cooper.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111–20th Street NW., Washington, D.C. Requests for information, or advance notice of intention to observe a meeting, may be directed to Executive Director, Foreign Claims Settlement Commission, 1111 20th Street, NW., Washington, D.C. 20579 Telephone (202) 653–6155.

Dated at Washington, D.C. on August 26, 1980.

Francis T. Masterson,

Executive Director.

[S-1648-80 Filed 9-2-80; 4:00 pm]

BILLING CODE 6775-01-M

11

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: [To be published].

STATUS: Open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATES PREVIOUSLY ANNOUNCED: Tuesday, August 26, 1980.

CHANGES IN THE MEETING: Deletion:

The following item will not be considered at an open meeting scheduled for Thursday, September 4, 1980, at 10 a.m.:

Consideration of whether to adopt a rule setting forth procedures for determining requests for confidential treatment under the

Freedom of Information Act. For further information, please contact Harlan W. Penn at (202) 272–2454.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: John Granda at (202) 272–2091.

August 29, 1980.

[S–1637–80 Filed 9–2–80; 10:35 am]

BILLING CODE 8010–01–M

12

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of September 8, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Wednesday, September 10, 1980, at 10:00 a.m., immediately followed by a closed meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 522b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans and Friedman determined to hold the aforesaid meeting in closed session.

The subject matter of the open meeting scheduled for Wednesday, September 10, 1980, at 10:00 a.m., will be:

Consideration of whether to adopt a rule setting forth procedures for determining requests for confidential treatment under the Freedom of Information Act. For further information please contact Harlan W. Penn at (202) 272–2454.

The subject matter of the closed meeting scheduled for Wednesday, September 10, 1980, immediately following the 10 a.m. open meeting, will be:

Formal orders of investigation.
Litigation matter.
Settlement of administrative proceeding of an enforcement nature.
Institution and settlement of administrative proceedings of an enforcement nature.
Access to investigative files by Federal, State, or Self-Regulatory authorities.
Administrative proceeding of an enforcement nature.
Freedom of Information Act appeal.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Lowenstein at (202) 272–2092.

September 2, 1980.

[S–1646–80 Filed 9–2–80; 3:50 pm]

BILLING CODE 8010–01–M

Federal Register

Thursday
September 4, 1980

Part II

Department of Energy

Economic Regulatory Administration

Voluntary Guideline for the Cost of Service Standard Under the Public Utility Regulatory Policies Act of 1978; Public Hearing

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-R-80-29]

Voluntary Guideline for the Cost of Service Standard Under the Public Utility Regulatory Policies Act of 1978 Proposed Guideline and Public Hearing

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed voluntary guideline.

SUMMARY: Title I of the Public Utility Regulatory Policies Act of 1978 (PURPA or the Act) establishes certain Federal purposes and policy standards for the regulation of electric utilities. It imposes a set of obligations upon State regulatory authorities and certain nonregulated electric utilities relative to their consideration of the Federal standards established by sections 111 and 113.

Under section 131 of PURPA, the Secretary of Energy is authorized to prescribe voluntary guidelines respecting the Federal standards. The Appendix of this Notice is the proposed voluntary guideline respecting the cost of service standard established by section 111 of PURPA. Written comments will be received and two public hearings will be held with respect to the proposed guideline.

DATES: Comments by 4:30 p.m., November 21, 1980. Requests to speak by November 5, 1980, 4:30 p.m. Public hearings dates: San Francisco, California hearing—November 13, 1980, 9:30 a.m.; Washington, D.C. hearing—November 18, 1980, 9:30 a.m.

ADDRESSES: All comments addressed to: Department of Energy, Office of Public Hearings Management, Docket No. ERA-R-80-29, 2000 M Street, N.W., Room 2313, Washington, D.C. 20461.

Requests to speak addressed to: Department of Energy, Office of Public Hearings Management, Docket No. ERA-R-80-29, 2000 M Street, N.W., Room 2313, Washington, D.C. 20461.

Hearing Locations: San Francisco, California hearing: Crocker/Hopkins Room, Ramada Inn/Fisherman's Wharf, 590 Bay Street, San Francisco, California 94133.

Washington, D.C. hearing: Department of Energy, 2000 M Street, N.W., Room 2105, Washington, D.C. 20461

FOR FURTHER INFORMATION CONTACT:

Stephen S. Skjei, Division of Regulatory Assistance, Office of Utility Systems, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 4016D, Washington, D.C. 20461, telephone (202) 653-3913.

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, telephone (202) 653-4055.

Mary Ann Masterson, Office of General Counsel, Department of Energy, 1000 Independence Avenue, S.W., Room 1E-258, Washington, D.C. 20585, telephone (202) 252-9516.

SUPPLEMENTARY INFORMATION:

I. Background

On November 8, 1978, the President signed into law the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*) as one part of the National Energy Act.

PURPA requires State regulatory authorities and certain nonregulated electric utilities to determine whether implementation of the ratemaking standards established by section 111, and adoption of the policy standards established by section 113, (except with respect to 113(b)(4)) would be appropriate to carry out the purposes set forth in section 101. The three purposes established by section 101 of PURPA are to encourage:

(a) Conservation of energy supplied by electric utilities;

(b) The optimization of the efficiency of use of facilities and resources by electric utilities; and

(c) Equitable rates to electric consumers.

One of the ratemaking standards established by section 111 directly addresses the fundamental concept of cost of service. Section 111(d)(1) establishes, as a Federal standard, that rates charged to each class of electric consumers shall be designed, to the maximum extent practicable, to reflect the costs of providing such service. Further definition and elaboration of this standard is provided by section 115(a) which establishes several special rules for considering the cost of service standard. In considering this standard, the costs of service must be determined on the basis of methods which permit (to the maximum extent practicable) identification of differences in cost-incurrences attributable to time of use and to differences in the customer, demand and energy components of cost. In addition, State regulatory authorities and covered nonregulated electric utilities, in prescribing such methods, must take into account the cost consequences of providing additional kilowatt-hours of energy and adding capacity to meet peak kilowatt demand.

Cost of service is also an integral part of the remaining ratemaking standards established in section 111(d). Sections 111(d)(2)-(6) set forth standards for declining block, time of day, seasonal and interruptible electric rates, and load management techniques; four of these Federal standards incorporate the underlying requirement that rates track the costs of service of the utility, while the load management standard specifies a cost-effectiveness criterion.

Section 131 of PURPA authorizes the Secretary of Energy to prescribe voluntary guidelines respecting consideration of the PURPA standards. These standards apply to those electric utilities whose annual retail sales exceed 500 million kilowatt-hours in any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year.

II. Guideline on the PURPA Cost of Service Standard

The purpose of this voluntary guideline is to assist State regulatory authorities and covered nonregulated electric utilities in their consideration of the cost of service standard set forth in section 111(d)(1) of PUPRPA, as well as in their consideration of the remaining standards in section 111(d), each of which is tied to the cost of service.

The guideline addresses five major issues that are germane to consideration of the cost of service standard and the decision to implement that standard in terms of the purposes of Title I of the Act. These issues are: (a) Marginal vs. embedded costs; (b) estimation of marginal cost; (c) adjustments to marginal cost-based rates; (d) alternative marginal costing methodologies; and (e) other issues.

The guidance set forth herein is advisory in nature and is not legally binding. It constitutes DOE's opinion on the issues that should be addressed when considering whether it is appropriate to implement the cost of service standard to carry out the purposes of Title I of the Act. the guideline complements and is fully consistent with the other activities undertaken by DOE pursuant to PURPA.

III. Cost of Service and the Purposes of PURPA

The three PURPA Title I purposes provide a necessary set of national policy criteria to guide the decisions made by a State regulatory authority or covered nonregulated electric utility in considering the section 111 and section 113 standards. In this regard, PURPA supplements the legal authority and

responsibility of State regulatory authorities and covered nonregulated electric utilities in those jurisdictions where existing State law provides insufficient authority to implement the PURPA standards. The three purposes also provide suplemental criteria for judicial review, in accordance with section 123 of PURPA, of State regulatory decisions regarding the Federal standards.

PURPA requires State regulatory authorities and covered nonregulated electric utilities to consider and determine whether the implementation of the cost of service standard established by section 111 of PURPA is appropriate to carry out the three purposes of Title I—end-use conservation, utility efficiency and equitable rates. In constructing the guideline proposed in the Appendix, DOE has adhered to those working definitions of the three purposes previously used in DOE intervention testimony. Based on the Act, itself, and its legislative history, these definitions are:

A. End-Use Conservation

The conservation purpose focuses on the end-use of electricity. End-use conservation does not necessarily mean minimizing the total use of electric energy or any other form of energy. Rather it is aimed at eliminating "wasteful" consumption or that consumption unjustified because it would involve a commitment of scarce resources valued in excess of the value to end-users of such consumption. Conservation is encouraged when end-users are faced with prices that reflect the actual costs of the resources used in producing electricity. Electricity would then be consumed only to the extent that the value of additional electricity consumption to consumers is equal to or exceeds the cost to society of producing the additional electricity.

This concept of conservation of electricity bears an obviously important relationship to the cost of service and other ratemaking standards set forth under Title I of PUPRA, since all six ratemaking standards are based on the concept the rates should reflect the cost consequences of providing additional kilowatt-hours of electric energy and kilowatts of electric demand. Such rate designs would encourage the societally appropriate degree of consumption and, by implication, conservation.

B. Utility Efficiency

The utility efficiency purpose of PURPA is directed at minimizing the total resource cost associated with the production of electricity in the quantities and at times that consumers wish to purchase it at prices which discourage wasteful (i.e., non-economic) use.

The utility efficiency purpose relates to the conservation of the resources used in the generation, transmission and distribution of electric power, rather than to efficient use of electricity itself, although optimal electricity supply presupposes economically efficient end-use. Utility efficiency specifically includes conservation of primary energy sources, especially scarce imported fossil fuels, through the substitution of more plentiful and domestically available energy resources (e.g., coal and nuclear). In furtherance of these objectives, the concept of utility efficiency would embrace development of alternative generating technologies, consistent with the economic merits of such technologies.

C. Equitable Rates

The equitable rates purpose deals with equity emong consumers rather than with the more traditional regulatory concern of determining equity between consumers and suppliers of electricity. As a general proposition, equity among electricity consumers is best achieved when rates for individual customers and classes of customers are based on the cost consequences of their individual decisions to consume or conserve additional amounts of electricity. Such cost-based rates would avoid wasteful subsidies between users.

Both PURPA and the Conference Report, however, contemplate exceptions to the principle that equitable rates should be based on the cost of service. These exceptions would tend to protect customers from higher rates. Such exceptions may result, however, in some degree of wasteful usage, and should be pursued only when undue economic hardships would otherwise result.

Within the context of equity, finally, it should be stressed that the use of marginal costs in designing electric rates is not intended to raise or lower the rates for any particular class(es) of customers. To the contrary, the goal is to ensure that any given customer is charged a rate reflective of the economic consequences of consumption decisions.

IV. The Appropriateness of Marginal Costs

In an economy where resources are scarce, consumers are best served, i.e., consumer satisfaction is maximized, when the resources needed to produce competing goods and services are allocated among them in a manner that is consistent with the relative value to consumers of the competing products. Thus, additional scarce resources should be used to produce additional units of any product only if consumers are willing to pay a price for those additional units that is at least equal to the value of the resources needed to produce it. If consumers are not willing to pay such a price, the scarce resources should be used to produce additional units of some alternative product (for which consumers are willing to pay a price equal to or greater than the value of the resources used in production).

In a market economy such as ours, the price system plays a major role in the allocation of resources among competing uses and, consequently, in the determination of what and how much is produced and how goods and services are distributed among consumers. Consumers reveal their preferences for goods through the prices they are willing to pay; producers reveal their costs of producing these goods through the prices at which they are willing to sell these goods. To ensure that prices achieve the desired result of steering scarce resources into the production of goods at levels which maximize consumers' satisfaction in the consumption of those goods, it is important that prices accurately reflect the value of scarce resources used in the good's production. This happens when a consumer is faced with prices which reflect marginal cost.

In the case of electricity prices, a competitive market would reflect the costs of providing additional kilowatt-hour usage and kilowatt demand and would permit consumers to make sensible decisions about whether to consume more or less electricity at any given time. Rational consumption decisions made when prices reflect the marginal cost of electricity would affect the use of alternative fuels, including renewable resources, and substitution of conservation measures for electricity consumption.

A competitive market does not exist, however, in the electric utility industry. Instead, electric rates are set by public regulators rather than by consumer and producer decisions in a competitive marketplace. In the past, the focus of public rate regulation was on establishing the revenue requirement of a utility—the general level of revenues necessary for a utility to cover its fixed and operating costs and to earn a "fair" rate of return on its invested capital. Because the primary objective of rate design was to set rates which generated the required revenue, there was little concern about ensuring that consumers understand the cost consequences of their decisions to consume additional

amounts of electricity. Section 115(a) of PURPA, however, stipulates that State regulatory authorities and covered nonregulated electric utilities shall now take into account the cost consequences of additional kilowatt-hour usage and peak kilowatt demand in considering the cost of service.

Electric utility rates which reflect marginal costs best confront consumers with the cost consequences of their usage decisions. Faced with such price signals, electric consumers will tend to use the amount of electric service that is justified by its resource costs and such consumption behavior will, in turn, serve to carry out the three purposes of Title I of PURPA. Marginal cost-based pricing will encourage the proper amount of end-use conservation in the sense that no electricity will be consumed when its value to the consumer is less than the value of the resources required to produce it. Utility efficiency will also be furthered by basing electricity prices on the marginal costs of service, because such pricing will result in the least cost production of electricity, in the quantities and at the times that consumers decide to purchase it when faced with the consequences of their decisions. Finally, the equitable rates purpose is also furthered because marginal cost-based pricing would result in equal treatment for all customers who impose the same costs on the utility system.

V. The Proposed Guideline

This guideline addresses the five general issues which DOE believes are central to consideration of the cost of service standard and the decision to implement that standard in terms of the purposes of Title I of PURPA:

(a) Marginal costs vs. embedded costs;
(b) Estimation of marginal costs;
(c) Adjustments to marginal costs;
(d) Alternative marginal costing methodologies; and
(e) Other issues.

Following is a summary of each of these issues as proposed in the guideline:

A. Marginal Costs vs. Embedded Costs

Section 115(a) of PURPA, which establishes special rules for the section 111(d)(1) cost of service standard, requires that the approach to determining the cost of service account specifically for the functional breakdown of total costs and the time variation in these costs. Furthermore, in prescribing such approaches, State regulatory authorities and covered nonregulated electric utilities must take into account the increase in total costs that results from providing additional kilowatt-hours of energy and additional capacity to meet peak demand. It is DOE's conclusion that section 115(a) requires, in effect, that marginal costs be taken into account in the course of considering the cost of service standard.

B. Estimation of Marginal Costs

The measurement of the costs associated with providing another kilowatt-hour and another kilowatt (marginal cost) is a function of the specific characteristics of the particular utility system. Among the most significant characteristics that must be considered are the fuel mix and level of capacity in relation to the load. The guideline provides guidance concerning the appropriate estimation of marginal costs for four general utility cases which are representative of electric utility systems. The guideline does not, however, detail any preferred method(s) for calculating and applying marginal costs; public comment on this point is specifically solicited.

C. Adjustments to Marginal Costs

When designing rate structures on the basis of marginal costs, it may be necessary to make certain adjustments to marginal costs. First, adjustments will often be necessary to meet the total revenue requirement determined on the basis of embedded costs. If the amount of excess or deficient revenue is small, the rate adjustment to eliminate these excesses or deficiencies would result in small changes and would have insignificant effects on utility customers' consumption decisions. If the amount of excess or deficient revenue is large, rate adjustments should be made in a way which is consistent with the end-use conservation, utility efficiency and equitable rates purposes of PURPA (and with applicable State laws) and which is practical. With regard to adjustments to account for the existence of non-optimal pricing in significantly related markets, especially gas and oil, DOE does not believe that the existence of a substantial problem has been demonstrated. Lastly, environmental and other social costs associated with the production of electric power at the margin should be included in calculating the marginal cost of electricity to the extent they can be quantified. However, a significant proportion of those external or social costs have already been internalized through regulation.

D. Marginal Costing Methods

The selection of a marginal costing method and its specific application should be baded on a careful analysis of the characteristics of the electric utility and its customers, and the characteristics of each marginal costing methodology. DOE proposes several criteria to be considered by regulatory authorities in the process of selecting a method.

E. Other Issues

The adoption of marginal cost pricing does not necessarily lead to the implementation of any particular rate structure. Selection of any of the section 111 rate structures to further the three purposes of PURPA should depend on the electric utility's marginal costs, the costs of implementation, and the probable consumption responses and resource savings.

Customer classes should be defined in a way which minimizes the differences among customers within a class and maximizes the differences among classes in terms of the following service characteristics: Voltage delivery levels, geographic location, consumption by time of use, the relative diversity of demand vis-a-vis the time of system peak and total usage.

Adjustments between rates and marginal costs should be permitted only to meet the revenue requirement and to avoid exceptional economic hardships. Any such adjustments should be done in a way which does minimal damage to the benefits to be realized from rate structures based on marginal costs.

VI. Written Comments and Public Hearing Procedures

A. Written Comments

The public is invited to participate in this proceeding by submitting to DOE's Economic Regulatory Administration (ERA) information, views or arguments with respect to the proposal set forth in the Appendix to this Notice. Comments should be submitted by 4:30 p.m., November 21, 1980, to the address indicated in the "ADDRESSES" section of this Notice and should be identified on the outside of the envelope and on documents submitted with the designation: "Proposed Voluntary Guideline on the PURPA Cost of Service Standard, Docket No. ERA-R-80-29." Five copies should be submitted. All comments received will be available for public inspeciton in the DOE Reading Room GA-152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, and the ERA Office of Public Information, Room B-110, 2000 M Street, NW., Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Pursuant to the provisions of 10 CFR 10005.11, any person submitting information which he or she believes to

be confidential and which may be exempt by law from public disclosure should submit one complete copy and 15 copies from which information claimed to be confidential has been deleted.In accordance with the procedures established at 10 CFR 1004.11, DOE shall make its own determination with regard to any claim that information submitted be exempt from public disclosure.

B. Public Hearing

(1) *Procedures for Request to Make Oral Presentation.* The times and places for the hearings are indicated on the "DATES" and ADDRESSES" sections of this Notice. Any person who has an interest in this proposed guideline or represents a person, group or class of persons that has an interest, may make a written request for an opportunity to speak at the public hearing. Requests to speak must be sent to the address shown in the "ADDRESSES" section and be received by November 5, 1980. The request should include a telephone number where the speaker may be contacted through the day before the hearing.

All persons participating in the hearing will be so notified on or before November 10, 1980 for the Washington, D.C. and San Francisco, California hearings. Speakers should submit 100 copies of their hearing testimony for distribution at the Washington, D.C. hearing by 4:30 p.m., on November 10, 1980, to the Office of Public Hearings, Management, U.S. Department of Energy, Room 2313, 2000 M Street, NW., Washington, D.C. 20461, and bring 100 copies of their hearing testimony to the San Francisco, California hearing at 8:30 a.m. on November 13, 1980.

(2) *Conduct of the Hearing.* ERA reserves the right to schedule particpants' presentations and to establish the procedures governing the conduct of the hearing. ERA may limit the length of each presentation based on the number of persons requesting to be heard. ERA encourages groups that have similar interests to choose one appropriate spokesperson qualified to represent the views of the group.

ERA will designate an official to preside at the hearing. This will not be a judicial-type hearing. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if time permits, to make a rebuttal statement. Rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Questions to be asked at the hearing should be submitted in writing to the presiding officer. The presiding officer will determine whether the question is relevant, and whether time limitation permit it to be presented for answer. The question will be asked of the witness by the presiding officer. The presiding officer will announce any further procedural rules needed for the proper conduct of the hearing.

ERA will have a transcript made of the hearings and will retain the entire record of the hearings, including the transcrpit. The record will be available for inspection at the DOE Freedom of Information Office, Room GA-152, James Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, and the ERA Office of Public Information, Room B-110, 2000 M Street, NW., Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. A copy of the transcript may be purchased from the reporter.

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*); Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7101 *et seq.*))

Issued in Washington, D.C., on August 27, 1980.

Hazel R. Rollins,

Administrator, Economic regulatory Administration.

Appendix—PURPA Voluntary Guideline Number 4: Cost of Service

A. Introduction

This voluntary guideline addresses consideration of the cost of service standard established by section 111 of the Public Utility Regulatory Policies Act of 1978 (PURPA or the Act). It sets forth the issues that the Department of Energy (DOE) considers to be of major importance in addressing the cost of service standard and is intended to assist State regulatory authorities and covered nonregulated electirc utilities in meeting their legal obligations under PURPA Title I in a consistent and rational manner. This guideline is voluntary and does not in any way modify or condition existing State regulatory authority and nonregulated electric utility practices or applicable State laws.

B. Coverage of the Guideline

This guideline covers the determination of the cost of providing electirc service as that cost of service relates to consideration of the standard established by section 111(d)(1) of PURPA. The voluntary guideline does not in any way modify or condition the rules which have been promulgated by the Federal Energy Regulatory Commission (FERC) under section 133 of PURPA, which require periodic reporting of marginal and embedded cost information, or those which have been promulgated by the FERC under section 210 of PURPA, which require electirc utilities to buy power from small power producers and cogenerators at a rate equal to the utility's avoided cost. This guideline does not apply in situations involving either the sale of electric energy to qualifying cogenerators and small power producers or the purchase of electric energy from such facilities by covered electric utilities, if such sales and purchases are covered by section 210 of PURPA and rules promulgated by the FERC.

C. Definitions

As provided in this guideline, except as otherwise specifically provided—

"Class" means, with respect to electric consumers, any group of such consumers who have similar characteristics of electric energy use.

"Electric consumer" means any person, State agency or Federal agency, to which electirc energy is sold other than for purposes of resale.

"Electric utility" means any person, State agency, or Federal agency which sells electric energy.

"Federal agency" means an executive agency (as defined in section 105 of Title 5 of the Unites States Code).

"Load management technique" means any technique (other than a time of day or seasonal rate) to reduce the maxium kilowatt demand on the electric utility, including ripple or radio control mechanisms, and other types of interruptible electric service, energy storage devices, and load-limiting devices.

"Nonregulated electric utility" means any electric utility other than a State regulated electric utility.

"Person" means an individual, partnership, corporation, unincorporated association or any other group, organization or entity.

"Rate" means (a) any price, rate, charge or classification made, demanded, observed or received with respect to sale of electric energy by an electric utility to an electric consumer, (b) any rule, regulation or practice respecting any such rate, charge or classification, and (c) any contract pertaining to the sale of electric energy to an electric consumer.

"Ratemaking authority" means authority to fix, modify, approve or disapprove rates.

"Rate schedule" means the designation of the rates which an electric utility charges for electric energy.

"Secretary" means the Secretary of Energy.

"State" means a State, the District of Columbia, and Puerto Rico.

"State agency" means a State, political subdivision thereof, and any agency or instrumentality of either.

"State regulated electric utility" means any electric utility with respect to which a State regulatory authority has ratemaking authority.

"State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electric energy by any electric utility (other than such State agency), and in the case of an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority.

D. Organization and Content

The guideline is organized around five general issues that DOE considers relevant in the consideration of the cost of service standard and the proper use of the costs of service in establishing electric utility rates that carry out the purposes of Title I of PURPA:

1. marginal costs vs. embedded costs;
2. Estimation of marginal costs;
3. Adjustments to marginal costs;
4. Alternative marginal costing methodologies; and
5. Other issues.

E. Marginal Costs vs. Embedded Costs

Section 111(d)(1) of PURPA establishes as Federal standard that "rates charged by any electric utility for providing electric service to each class of electric consumers shall be designed, to the maximum extent practicable, to reflect the cost of providing electric service to such class * * *." The five other ratemaking standards established in section 111(d) require that the specific rate structures in question (i.e., declining block rates, time of day rates, seasonal rates, interruptible rates) and load management techniques be designed to reflect the cost of service.

Section 115(a) of PURPA establishes special rules for the cost of service standard set forth in section 111(d)(1) of the Act. Specifically, section 115(a) requires that, to the maximum extent practicable, methods used to determine the cost of providing electric service shall permit:

(1) Identification of differences in cost-incurrence for each class of electric consumers attributable to daily and seasonal time of use of service; and

(2) Indentification of differences in cost-incurrence attributable to differences in customer, demand and energy components of cost;

Further, in prescribing such methods State regulatory authorities and covered nonregulated electric utilities shall take into account:

(3) The extent to which total costs to an electric utility are likely to change if additional capacity is added to meet peak demand relative to base demand; and

(4) The extent to which total costs to an electric utililty are likely to change if additional kilowatt-hours of electric energy are delivered to electric consumers.

Taken as an integrated set, these four factors require the use of a costing method capable of identifying marginal costs by time of use, basic cost classification, and customer class. State regulatory authorities and covered noregulated electric utilities, however, may select their preferred marginal cost method from among several practical methods, including those identified by the Electric Utililty Rate Design Study and other such studies.

1. *Marginal costs.* In general, marginal cost is the additional cost incurred (or the cost saved) if one more (or one less) kilowatt or kilowatt-hour of electricity is produced. In other words, marginal costs reflect the change in total costs occasioned by a change in consumption.

The Glossary: *Electric Utililty Ratemaking and Load Management Terms,* prepared for the Electric Utility Rate Design Study by the Electric Power Research Institute, includes the following definition: "Marginal cost: The change in total costs associated with a unit change in quantity supplied (i.e., demand or energy)."

This fundamental characteristic does not apply to embedded costs. The costs a utility incurs to respond to changes in customer usage are not measured by either the average accounting costs for the fuels it purchases or the average accounting costs for its fixed facilities (generating plant, transmission system, distribution system). The actual costs a utility incurs are measured by the price or prices it must pay for additional fuel, the expenditures it must make for new fixed facililties, and any other changes in its total costs of service.

Accordingly, rates based on marginal costs, but not rates based on average accounting or embedded costs, indicate to users the cost consequences of changes in their consumption. Because of this quality, marginal cost-based rates further the end-use conservation, utility efficiency, and equitable rates purposes set forth in section 101 of PURPA.

Moreover, only marginal cost accounts for all four of the cost characteristics specified in section 115 (a) of PURPA. As noted earlier, the concept of marginal costs is entirely consistent with the requirements of sections 115(a)(2) (A) and (B). In addition, it is consistent with the three basic cost classifications of electric service (customer, demand and energy) specified in section 115(a)(2). Marginal costing approaches attribute costs to the different characteristics of service (such as demand, energy and voltage levels) used by different customers. Each customer and customer class is then charged for its use of these different characteristics of electric utility service in accord with the costs of these characteristics. Cost responsibility is assigned to each customer class on the basis of its use of electric utility services and in accord with the cost to the utility of providing more or less of each of these services.

Finally, section 115(a) of PURPA requires identification of the differences in cost incurrence by daily and seasonal time of use.

Most of the time variation in the cost of providing electric service occurs in the provision of the bulk power supply—both capacity and energy—and this variation is directly related to the pattern of loads that must be met by the provision of the bulk power supply. Some time variation is costs also results from the provision of subtransmission and distribution services, though this contribution is relatively minor when compared to the time-varying costs of bulk power supply. Customer-related costs, i.e., the costs of connecting customers to the electrical system, have no time variation.

Marginal cost, by its very definition, will vary by season and by time of day, depending on the load that must be met at each point in time. In the case of bulk power supply, for example, the short-run marginal cost is the cost of meeting the last kilowatt of load in each hour by running the least efficient generating unit needed to provide that last kilowatt. Because the system load varies from hour to hour, and because the operating costs of the various generating units may also vary significantly, the short-run marginal cost of providing energy will vary hour by hour and so by time of day and by season. When growth in peak demand creates the need for additional generating and associated bulk power transmission capacity, while maintaining a given level of system reliability, the marginal cost of the needed capacity is the minimum capital cost required to meet that increment of load during the peak period.

2. *Embedded (average) costs.* Embedded costs do not meet three of the four PURPA section 115(a) requirements for considering the cost of service

standard. Specifically, embedded costs, by definition, do not take into account either the change in total costs which results from providing additional capacity to meet peak demand and/or additional kilowatt-hours of energy or the time variation in these costs. Embedded costs do not adequately capture the change in total costs associated with the provision of additional service by time of day or by season.

In addition, while the embedded cost method does permit the total costs of service to be allocated to the major functional components of costs and these functional components to be allocated to the different classes of customers, these costs are based entirely on past decisions rather than on the cost consequences of current decisions to consume additional units of service.

3. *Electric utility cost structure.* This section describes the major characteristics of the production and sale of electric power which affect the costs of the major functional components of electric utility service. These characteristics and their effect on costs must be reflected in the methods selected by State regulatory authorities and covered nonregulated electric utilities in accordance with section 115(a). Electric utility costs can be separated into three major categories, corresponding to the three major components of electric service: (1) Bulk power supply costs; (2) the costs of subtransmission and distribution, exclusive of connection costs; and (3) the costs of connecting customers to the system and of maintaining those connections.

Electric utility costs are fundamentally shaped by two characteristics of the production and sale of electric power. First, electric utilities are obligated to meet maximum loads (except during emergency outages) whenever they occur. Second, as a general proposition, power cannot conveniently be stored. These two factors require that the utility maintain sufficient generation, transmission and distribution capacity to serve the maximum coincident loads placed on each of these three parts of the electrical system.

This requirement, in itself, would pose no special supply problems if loads were relatively constant across all hours of the year. Typically, however, they are not. There is usually a wide range between the maximum and minimum hourly loads imposed upon an electrical system over any given day, month or year. This is largely because loads tend to vary with such environmental conditions as temperature, weather and periods of daylight—all of which vary significantly over the course of a day or a year.

Electric utilities respond to these three characteristics—the obligation to meet maximum demands whenever they occur; the inability to conveniently store electric power; and the wide variation in electric loads—by using different types of capacity for different periods of time. Their use of different types of capacity is directed toward minimizing the total costs of meeting any given system load while maintaining system reliability. As a general proposition, it is most economical to meet loads of short duration by installing generating capacity that will have the lowest possible capital costs. On the other hand, it is most cost-effective to meet loads of relatively long duration by installing generating capacity with the lowest possible running costs.

The marginal costs of bulk power supply depend upon the utility's pattern of loads in three important respects. First, the need to maintin reliability during peak demand periods usually determines the total amount of generating capacity that must be installed, and growth in peak demand is the usual cause for capacity additions.[1] Second, an electric utility must consider the entire pattern of loads, and not merely peak demands, in deciding what mix of generating plants is most appropriate. Finally, the way in which existing generation capacity is dispatched to minimize total costs depends directly on the pattern of loads that must be served, and the resulting dispatch procedure determines the running costs of the utility.

Transmission-related costs (both capital and operation and maintenance costs) as traditionally defined should properly be broken into two categories—bulk power supply transmission and subtransmission. Bulk power supply transmission costs are incurred from central station baseload generating facilities to load center. Subtransmission costs are incurred in the process of moving electric power at much lower voltages from major substations to the distribution system. The factors that are responsible for the incurrence of generation costs (peak demand, pattern of loads and cost-minimization opportunities) are also responsible for the incurrence of bulk power transmission costs.

Subtransmission and distrubution costs (both capital and operation and maintenance costs) are incurred in the process of delivering bulk power supplies to customers at usable voltage levels. There are three aspects of these costs that directly affect the magnitude of subtransmission and distribution costs.

(a) Losses occur in the process of transforming, transmitting and distributing electric power, and the magnitude (and so the costs) of these losses is directly related to the number of kilowatt-hours delivered at each voltage delivery level;

(b) The cost of connecting any given customer to the distribution and transmission network are independent of the amount of electricity consumed by that customer. The total of these costs is related directly to the number, sizes, and voltage levels of customers connected to the system and not to their kilowatt-hour usage or kilowatt demand; and

(c) Certain operating expenses, such as customer accounts, expenses and customer service and information expenses, are directly related to the number and type of customers that take service from the utility.

F. Estimation of Marginal Costs

In any market, the price that leads to the efficient use of resources is a marginal cost price. This is true whether or not the market is competitive. In a competitive unregulated market, market forces themselves act to ensure pricing at marginal cost levels. If prices were above marginal costs, producers would be attracted by the profits obtained from additional sales and would expand their production of the good or service. Production would be expanded until the price consumers are willing to pay for that good or service falls to the level equivalent with marginal costs. Similarly, the price of a good or service could not remain below the marginal cost of production indefinitely. Producers would suffer losses on every sale made at a price which was lower than marginal costs and would contract their production until the price consumers were willing to pay for that good or service rose and became equal to marginal costs.

In a regulated industry, however, a major goal of regulation should be to ensure that, to the maximum extent practicable, the regulated prices reflect marginal costs. In determining the

[1] Two exceptions to this general rule must be noted. For some utilities, "excess capacity" suitable for peaking purposes will be available during the peak period for the foreseeable future, and capacity additions may be attributable solely to the need to serve, the total kilowatt-hour energy requirement at the least cost. For other utilities, capacity additions may be highly unlikely in the foreseeable future. Both of these situations imply that capacity costs are not relevant on the margin during any rating period and that there should be no capacity charges in the associated rates, because capacity additions are not attributable to kilowatt demand.

marginal costs for an electric utility system, it is often useful to employ the two closely related concepts of "avoided" costs and "opportunity" costs. Marginal costs are the costs incurred or the costs saved if one more unit of a good or service is produced. Avoided costs, as used by the FERC in its cogeneration rulemaking for section 210 of PURPA (45 FR 12214, February 25, 1980), are the incremental costs to an electric utility of the electric energy or capacity (or both) which, but for the purchase from a cogenerator, the utility would need to obtain from traditional sources. Thus, avoided costs are marginal costs; they are the costs a utility saves or does not incur because it does not itself produce an additional kilowatt or kilowatt-hour.

The opportunity cost associated with any good or service is the market value of the alternatives which are foregone because that good or service is produced or made available in a certain manner. For example, the opportunity cost of a kilowatt-hour might be measured by the market value of the fuel used in generating it. The fuel used to generate electricity can be used for other purposes, such as heating homes. The opportunity cost associated with using it to generate electricity is defined by the inability to use it for these other purposes. Because the value of the fuel in alternative uses is reflected in the price consumer are willing to pay for it (and thus in its market price), the market price of the fuel reflects its opportunity cost.

While a kilowatt-hour of electric energy cannot be created without burning fuel, a kilowatt of capacity can in some cases be made available without any opportunity cost. If an electric utility system has substantial excess capacity at any point in time, the opportunity cost of a kilowatt at that time is zero. Nothing is sacrificed, no resources are used, no alternatives are foregone if kilowatt is made available.

Each of the three concepts of cost suggests that, in the electric utility industry, the measurement of the costs associated with providing both another kilowatt-hour and another kilowatt is affected by the mix and level of capacity in relation to load. The following four general capacity/load cases may be distinguished:

(1) Systems in which capacity is to be added for reliability purposes.

(2) Systems in which capacity is to be added to lower the costs of meeting load.

(3) Systems in which capacity is to be added to provide additional energy.

(4) Systems in which no capacity is to be added. These are discussed in turn.

1. *Capacity additions to improve reliability.* For systems in which additional capacity must be built only for reliability purposes, marginal energy costs may be measured by the operating costs of the most expensive generating unit used in any time period—that is, the marginal running costs, sometimes referred to as "system lambda."

Marginal capacity costs may be measured by calculating the capital costs, net of any associated fuel savings, of the generating unit (peaker, cycling unit or baseload plant) which will meet the increment in demand in the least cost manner. For example, if a combustion turbine will be built to meet the need for additional capacity, the marginal capacity costs is that of this unit. However, in many cases the least cost alternative for adding capacity is through construction of a baseload or cycling unit, because the higher capital costs of such a unit are more than offset by its operating costs. The savings in fuel costs should therefore be credited against the fixed cost of the new unit, i.e., marginal capacity cost will be measured by the capital cost (annual carrying charges) of the plant less the associated fuel savings generated by using the new plant.

2. *Capacity additions to lower total cost.* In the second situation in which additional capacity is built to reduce the total cost of meeting a load, i.e., new additions replace existing capacity, marginal energy costs are measured by the operating costs of the most expensive unit used in any rating period. Marginal capacity costs in this situation are zero because the utility has excess reserves.

The utility does not need to build new capacity to meet an increment in demand. In other words, there is no opportunity costs associated with making one more kilowatt available. The capacity needed to meet an increment in demand is already in place (excess reserves) and must be paid for (carrying cost) whether they are used or not. Only if the capacity can be sold as firm power might there be an opportunity cost associated with its use by utility customers.

3. *Capacity additions to provide additional energy.* For systems in which capacity is added only to provide additional energy, e.g., a system with extensive hydroelectric capacity, marginal capacity cost are also zero. There is no capacity cost to the utility because the utility has excess reserves at peak and is adding the new unit to meet an increase in total energy requirements not an increase in demand. Marginal energy cost may be measured by an opportunity cost concept if sales are made or by assigning the full capital cost of the new capacity to the energy cost account (because it is being used to provide energy) and calculating a per kilowatt-hour charge.

4. *No capacity additions.* Marginal capacity costs are also zero, or defined by opportunity costs, in utility systems which have an excess of technically efficient capacity, and would probably not plan to build new capacity for an extended period of time (a decade or more). However, if all of the excess capacity can be sold to another utility or utilities, there is an opportunity cost associated with an increment in demand and it is this cost which should be used in setting rates. An increment in system demand reduces earnings from sales and thus causes a loss in revenue from such sales. This loss in earnings is an opportunity cost for the system and can be used to define marginal capacity costs.

Marginal energy costs in this situation may be defined either by opportunity costs or system lambda. If sales can be made to a grid or powerpool at a price in excess of the system lambda, it may not be appropriate to use system lambda as a measure of marginal energy cost. In this, situation the sale price determines the opportunity cost of providing an incremental kilowatt-hour. Where such sales cannot be made or can be made only to a limited extent (which does not require use of the entire excess capacity), system lambda is an appropriate measure of opportunity costs or marginal costs.

G. Adjustment to Marginal Costs

When designing rate structures on the basis of marginal costs, to conform with the ratemaking standards set forth in section 111 of PURPA, it may be necessary to make certain adjustments. Considerable attention has been focused on the choice of alternative adjustment procedures and the practical problems necessitating such adjustments. The major adjustments at issue fall into three categories: (1) Adjustments to meet the total revenue requirement determined, in rate of return regulation, on the basis of total embedded costs; (2) adjustments to account for inconsistencies in the application of marginal cost pricing principles between electric and related markets; and (3) adjustments to account for external costs.

When such adjustments are necessary, for whatever reason, the ratemaker should remember that the purpose of marginal cost pricing is to encourage efficient use of energy and capacity by providing rate incentives to consumers. It is not the intent of

marginal cost pricing to redistribute the revenue requirement among customers or customer classes. In fact, attempts to redistribute the revenue requirement may have serious negative impacts on efficiency.

1. *Revenue related adjustments.* Total allowed revenues will generally continue to be determined by State regulatory authorities and covered nonregulated electric utilities on the basis of historical embedded costs. Rates based purely on the marginal costs of service will not normally recover exactly the same revenues that are allowed on an embedded cost basis. Over-collection of revenues will occur when marginal costs are determined to exceed the average embedded costs for a utility; conversely, undercollection will occur when marginal costs are less than embedded costs. In most cases it will be necessary to adjust some rate elements up or down to design a rate structure that will recover the established revenue requirement.

This need to make revenue-related adjustments does not, however, preclude the application of marginal costing principles in designing the structure of electric rates. For some utilities, rates based purely on marginal cost should result in only small amounts of excess (or insufficient) revenue. Adjustments to eliminate these excess (or insufficiencies) would result in small changes and would have insignificant effects on consumers' decisions regarding when and how much electricity to consume.

For situations in which the amount of excess (or insufficient) revenue is relatively large, the necessary rate adjustments can be made in a variety of practical ways which are consistent with the end-use conservation, utility efficiency and equitable rates purposes of PURPA, as well as consistent with applicable State law.

Customer charges may be reduced or eliminated to offset any excess revenues that might result from marginal cost-based rates. Alternatively, an inverted rate structure may be used in which the tailblock rate reflects marginal costs and the initial block or blocks are set at a low enough level to meet the revenue requirement. Additionally, a proportionate reduction of rates that preserves the structure of marginal costs by time of day or by season may be appropriate. where undercollection would occur, additional revenues can be generated by increasing customer charges, which would have minimal effects on consumers' decisions of when and how much electric power to consume. Further, the undercollection can be eliminated by a proportionate increase of functional prices that preserves the structure of marginal costs.

The use of rates that reflect marginal costs need not create undue financial harships for any class of utility customers. If rates based on marginal cost would result in an excessive increase in the revenue responsibility of any one customer class (or of an identifiable group of customers within a class), then rate adjustments can be made so as to provide, over a period of years, a gradual transition toward rates fully reflective of the structure of marginal costs. This approach to mitigating excessive economic burdens is fully consistent with the legislative history of PURPA, which identifies certain exceptions (phased implementation, temporary exemptions and lifeline rates) to the concept that equitable rates should be based on the cost of service. Phased implementation of and temporary exemptions from the section 111 ratemaking standards provide a transition period for affected customers to make the necessary adjustments in their electricity consumption to reduce any exceptional burdens resulting from the implementation of rates based on marginal costs.

In selecting a procedure to adjust marginal cost-based rates, State regulatory authorities and covered nonregulated electric utilities should give consideration to the effects of the adjustments on the use of generating capacity, rate stability and the resulting economic impacts on electric consumers. In addition, it is important that these adjustments be made so as to result in rate structures with minimum deviation from the structure of marginal costs.

2. *Inconsistency among related markets.* Another issue concerning the application of marginal cost pricing to the electric utility industry relates to the extent to which the prices of related commodities reflect their marginal costs. Theoretically, the existence of non-optimal pricing (prices that deviate from marginal cost) in related markets can affect the degree to which overall economic efficiency can be attained by basing electric rates on marginal costs.

DOE does not believe that the existence of a substantial problem in this regard has been demonstrated. The benefits to a utility of basing electric rates on marginal costs, in any event, are not likely to be appreciably offset by such a problem.

3. *Adjustments to account for social costs.* The production and consumption of some commodities, including electricity, can result in external costs that are imposed on individuals or groups who are neither the producers nor the consumers of that commodity. The environmental pollution resulting from the production of electricity or the consumption of gasoline in private automobiles are examples of these external or social costs. If these marginal social costs are not paid by the producers of the commodity, they are not included in its price. When there are important social costs that are associated with the production or consumption of a commodity, and the price of the commodity reflects only the marginal private costs that are incurred in its production, that commodity will be overproduced and overconsumed.

Although there are external or social costs associated with the production of electric power, to a large extent these social costs have already been internalized and accounted for in the determination of electric utility rates. As a result of both Federal and State environmental and safety regulations, electric utilities have been required to incur considerable expense to reduce these social costs; and these expenses for pollution abatement and the maintenance of public health and safety are now included by the utilities and their regulators in the prices that consumers must pay for electricity.

Other important social costs associated with the production of electricity at the margin may be found to exist, which have not been imposed on the producers of electricity. In such cases if the magnitude of these social costs can be quantified, these costs should be included in the calculation of marginal costs.

H. Alternative Marginal Costing Methodologies

Several methodologies exist for the calculation of electric utility marginal costs. The prescription of a marginal costing method by a State regulatory authority or covered nonregulated electric utility should be make in light of the characteristics of the electric utility and its customers, and the characteristics of each marginal costing methodology.

DOE does not believe that any single approach to calculating (or applying) marginal costs ought to be universally followed. Substantial flexibility in selecting a method that is appropriate to a given situation was clearly contemplated by the Congress and is strongly endorsed by DOE. In selecting a preferred marginal cost method, State regulators and covered nonregulated electric utilities should bear in mind that the aim of marginal cost pricing is, quite simply, to establish rate incentives that

reflect the economic benefits of efficient use of energy and capacity. Ratemakers should not allow this straightforward goal to become obscured by excessively theoretical deliberations or unnecessarily complicated methodologies.

1. The method should accommodate a practicable resource planning process for the utililty and should recognize the ability to substitute capital for fuels.

2. The method should yield an appropriate functional breakdown of marginal costs and an assignment of costs to the loads that are responsible for imposing those costs on the system.

3. The method should measure marginal costs over either the short-run or long-run, as deemed appropriate.

4. The method should accommodate consideration of pool-wide marginal costs when the utility is a member of an efficiently dispatched powerpool.

5. The method should permit all parties to the ratemaking proceeding to have access to the estimation procedures employed, thus permitting verification and assessment of the cost estimates.

Finally, and by definition, the method must be forward-looking in that it must estimate the cost consequences of current consumption decisions over the period when the rates under consideration will be in effect.

I. Other Issues

1. *Rates structure standards.* Subsections 111(d) (2) through (6) of PURPA established Federal standards with respect to declining block rates, time-of-day rates, seasonal rates, interruptible rates, and load management techniques. These standards provide that: Declining block rates that are not cost-based shall be eliminated; time-of-day rates shall be established if cost-effective, where costs vary by time-of-day; seasonal rates shall be established where costs vary by season; cost-based interruptible rates shall be offered to commercial and industrial customers; and load managment techniques shall be offered to consumers when such techniques are determined to be practicable, cost-effective, reliable and to provide useful energy or capacity managment advantages to the electric utility.

Adoption of marginal cost pricing does not necessarily lead to the implementation of any particular rate structure. Which of the rate structures specified in section 111 of PURPA will be appropriate for implementation will depend on the functional and time-varying structure of marginal costs that is determined. In addition, specific cost-effectiveness determinations must also be made for time-of-day rates and load management techniques. Similarly, implementation of seasonal rates, while not explicitly requiring a cost-effectiveness test, does imply that the measured seasonal differential in costs should be great enought warrant the implementation of such rates. In short, State regulatory authorities and covered nonregulated electric utilities must analyze the structure of marginal costs, the costs of implementation, and the probable consumption responses and resource cost saving when determining whether implementation of any specific marginal cost-based rate structure will serve to carry out the three purposes of Title I of PURPA.

2. *Definition and us of customer classes.* To realize the end-use conservation, utility efficiency and equitable rates objectives set forth in Title I of PURPA, the differences in the costs of providing service to different classes of electric consumers should be determined on the basis on the basis of marginal costs. Most of the costs of providing electric service to the several classes of electric consumers are incurred in the provision of bulk power supply (i.e.,. the generation and transmission of electricity at high voltage levels), and these cost at the margin will be the same at generation level for all individual customers who take service at the same point in time. Thus, bulk power supply costs should be determined at the system level, and the unit costs of use of this functional component of service should be the same for all customers, save for differential losses due to differences in voltage delivery levels. On the other hand, customer classes should be used in the determination of other functional components of costs and for the purpose of translating the marginal costs of the various functional components of service into a structure of rates that properly reflects the differences in the costs of providing service to different classes of electric customers.

In defining customer classes, care should be taken to yield groupings that are internally homogeneous with respect to the critical cost-causative attributes of loads (e.g., contributions to system peak demand) and the proxies for these attributes (e.g., noncoincident maximum billing demands) that will be used for billing purposes. In determining the proper definition of customer classes for costing and rate design purposes, DOE recommends that State regulatory authorities and covered nonregulated electric utilities analyze the following service characteristics with respect to marginal costs:

(a) Voltage delivery levels;

(b) Geographic location to the extent that it is related to differences in distrubution costs;

(c) Consumption by time of use;

(d) The relative diversity of demand vis-a-vis the time of the system peak to ensure that diversity benefits generated by each class of similar customers are retained by the customers in that class; and

(e) Total usage to permit examination of the relationship between the volume of use and the cost of service.

3. *Deviations from marginal costs.* In its discussion of section 111(c), the Conference Report suggests phasing the implementation of the section 111 standards or granting temporary exemptions from implemented standards to mitigate significant economic hardships that would result from sudden shifts in electric utility rates. In addition, section 114 requires each State regulatory authority and covered non-regulated electric utility to consider the appropriatengss of a lifeline rate for essential residential needs that would be lower than a rate based on the cost of service.

If such deviations are deemed appropriate by State regulators or covered nonregulated electric utilities, DOE encourages the use of approaches that minimize the discrepancies between marginal costs and the structure of electric utility rates, particularly for those uses, in any customer class, deemed to be relatively price elastic. DOE believes that any such departures from marginal cost should be designed in a manner to do minimal damage to the benefits of rates based on marginal costs.

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Part III

Environmental Protection Agency

Protests of Grantee Procurement Actions Under Grants for Construction of Publicly Owned Treatment Works; Subject Index List of Regional Administrator Protest Determinations Issued During 1979

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1593-1]

Protests of Grantee Procurement Actions Under Grants for Construction of Publicly Owned Treatment Works; Subject Index List of Regional Administrator Protest Determinations Issued During 1979

This notice publishes the 1979 subject index list for EPA Regional Administrator Protest Determinations. These determinations have been made under the EPA protest procedure set forth at 40 CFR § 35.939.

This is the third EPA subject index and lists only the bid protest determinations issued during calendar year 1979. The first index, listing Regional Administrator protest determinations issued during the period 1974 through 1977, was published at 43 FR 29086-95 (July 5, 1978). This was supplemented by the index of 1978 protest determinations published at 44 FR 25812-18 (May 2, 1979).

In 1979, 76 determinations were issued by EPA Regional Administrators. Each determination has been cited in this subject index by Grantee and State and includes a notation of the EPA Region in which the protest arose, the date of the determination, and the protester's name.

We consider asterisked determinations to be of special interest. In some instances, an explanatory parenthetical reference has been included.

Copies of the issued protest determinations may be examined or obtained from any EPA Office of Regional Counsel or from the headquarters source identified below.

Interested parties are invited to submit comments concerning any improvement or correction to the subject index list to Gerald H. Yamada, Assistant General Counsel, Grants (A-134), Office of General Counsel, United States Environmental Protection Agency, Washington, D.C. 20460. Comments should be made within sixty (60) days of this publication.

FOR FURTHER INFORMATION CONTACT:

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Ambiguity

*1. Cochran, GA (IV, 9-14-79) (Municipal and Industrial Pipe Services, Ltd.)
2. Mt. Pleasant, MI (V, 6-25-79) (Collavino Brothers Construction Co.)

A/E procurement

1. Clarksburg, MA (I, 8-25-79) (Curran Associates, Inc.)
2. Conneaut, OH (V, 7-18-79) (Hoff-Western)
3. Jefferson Parish, LA (VI, 3-28-79) (Moore, Gardner and Associates)
4. Puerto Rico Environmental Quality Board, PR (II, 3-30-79) (Technologists International, Inc.)
5. Monterey County, CA (IX, 2-26-79) (Monterey Construction Surveys, Inc.)
6. Simpsonville, KY (IV, 4-17-79) (Warner A. Brougham III and Associates)
7. West County Agency, CA (IX, 6-28-79) (R. D. Smith)
8. Muskegon County, MI (V, 7-29-79) (Video Media Corp.)

Award—Prime Contract

*1. Albuquerque, NM (VI, 2-2-79) (Kent Nowlin Construction Co.) (single bidder)

Bid Shopping

1. Caldwell, ID (X, 11-1-79) (Neilson & Co.) (subcontractor listing)
2. Hannibal, MO (VII, 6-7-79) (U.S. Enviro-Con, Inc.) (subcontractor listing)
3. Mt. Pleasant, MI (V, 6-25-79) (Collavino Brothers Construction Co.)

Bids

(A) Late

1. Puerto Rico Environmental Quality Board, PR (II, 3-30-79) (Technologists International, Inc.)

(B) Modification:

1. Bardstown, KY (IV, 1-3-79) (E. H. Hughes Co.) (I)
2. Detroit, MI (V, 12-11-79) (Polutech, Inc. and Glenn E. Wash Associates, A Joint Venture)
3. East Bay Dischargers Authority, CA (IX, 11-16-79) (Brantley Instruments) (Contra Costa Electric, Inc.)
*4. Kansas City, MO (VII, 12-20-79) (Garney Companies) (exception to method of tunnelling)

Bonds

*1. De Kalb Sanitary District, IL (V, 2-15-79) (Autotrol Corp.) (performance bond)
2. Hannibal, MO (VII, 6-7-79) (U. S. Enviro-Con, Inc.) (experience bond)
3. Howard County, MD (III, 2-15-79) (Water Pollution Control Corp.) (performance bond)
4. Newton, IA (VII, 12-6-79) (Municipal and Industrial Pipe Services, Ltd.) (bid bond)
5. Seaford, DE (III, 1-8-79) (National Hydro Systems, Inc.) (experience bond)

Burden of Proof

1. Bend, OR (X, 5-15-79) (Industrial Pump Sales Co.) (burden on grantee)
2. Cleveland Regional Sewer District, OH—clarification (V, 12-28-79) (Water Pollution Control Corp.)
3. Laurens County, SC (IV, 7-10-79) (Carolina Concrete Pipe Co., et al.)
4. Sewer Authority Mid-Coastside, CA (IX, 7-23-79; errata 9-21-79) (Radco Construction, Inc.)
5. Skagit County, WA (X, 5-4-79) (Glantz Supply, Inc.)
6. Metropolitan Sanitary District of Greater Chicago, IL (V, 10-11-79) (Morrison-Knudsen-Paschen) (mistake)

Buy American Act Requirements

*1. Concord, NH (I, 4-18-79) (Passavant Corp.) (construction materials)
2. Concord, NH (I, 10-4-79) (Bethlehem Steel Corp.) (6% preference)
3. Miami-Dade Water and Sewer Authority, FL (IV, 10-3-79) (Radiation Dynamics)
4. Newton, IA (VII, 12-6-79) (Municipal and Industrial Pipe Services, Ltd.) (protestant must prove jurisdiction)

Choice of Law

A. General

1. Newton, IA (VII, 12-6-79) (Municipal and Industrial Pipe Services, Ltd.)

B. Fundamental Federal Procurement Principles

1. Atlanta, GA (IV, 3-21-79) (Fruin-Conlon Corp.) (inconsistent local ordinance)
2. Gainsville, GA (IV, 6-15-79) (National Hydro Systems, Inc. (II)) (evaluation of equipment)
3. Skagit County, WA (X, 5-4-79) (Glantz Supply, Inc.)

C. State Law

1. Caldwell, ID (X, 11-1-79) (Neilson & Co)
2. Detroit, MI (V, 6-29-79) (C. J. Rogers, et al., A Joint Venture) (availability of local share)
3. Detroit, MI (V, 12-11-79) (Pollutech Inc. and Glenn E. Wash Associates, A Joint Venture) (material deviation from IFB)
4. Detroit, MI (V, 12-11-79) (Dynamic Construction Co.)

5. Jackson, CA (IX, 7–5–79) (Joseph R. Ramos Pipeline Engineering) (inaccuracies/irregularities in bid)
*6. Metropolitan Sanitary District of Greater Chicago, IL (V, 10–11–79) (Morrison-Knudsen-Paschen) (mistake)

Competition

A. General

1. Atlanta, GA (IV, 3–21–79) (Fruin-Conlon Corp.)
2. Chattanooga, TN (IV, 3–27–79) (Performance Systems, Inc.)
*3. De Kalb Sanitary District, IL (V, 2–15–79) (Autotrol Corp.)
4. Gainsville, GA (IV, 6–15–79) (National Hydro Systems, Inc. (II)) (supply of equipment)
5. Laurens County, SC (IV, 7–10–79) (Carolina Concrete Pipe Co., et al.) (pipe)

B. DeFacto

*1. De Kalb Sanitary District, IL (V, 2–15–79) (Autotrol Corp.)

C. Free and Open

1. Passaic Valley Sewerage Commissioners, NJ (II, 4–13–79) (Passavant Corp.)

Conflict of Interest

1. Miama-Dade Water and Sewer Authority, FL (IV, 10–3–79) (Radiation Dynamics, Inc.)

Defective IFB

1. Bend, OR (X, 5–15–79) (Industrial Pump Sales Co.) (minimum project requirements)
2. Cochran, GA (IV, 9–14–79) (Municipal and Industrial Pipe Services, Ltd.)
3. Passaic Valley Sewerage Commissioners, NJ (II, 4–13–79) (Passavant Corp.)

Enforcement

1. Glenbard Wastewater Authority, IL (V, 4–6–79) (USEMCO, Inc)
*2. Mt. Pleasant, MI (V, 6–25–79) (Contracts 2 & 3) (Collavino Brothers, Construction Co.)

Engineering Judgment

1. Batesville, AR (VI, 1–12–79) (Hinde Engineering Co.)
2. Cape May County, NJ (II, 8–31–79) (Clow/Envirodisc Corp.)
3. Chattanooga, TN (IV, 3–27–79) (Performance Systems, Inc.)
4. Cleveland Regional Sewer District, OH—Clarification (V, 12–28–79) (Water Pollution Control Corp.)
5. Concord, NH (I, 4–18–79) (Passavant Corp.) (Buy American)
6. Concord, NH (I, 10–4–79) (Bethlehem Steel Corp.) (Buy American)
7. Gainsville, GA (IV, 6–15–79) (National Hydro Systems, Inc. (II))
8. Kansas City, MO (VII, 12–20–79) (Garney Companies) (alternate method for tunnelling)
*9. Laurens County, SC (IV, 7–10–79) (Carolina Concrete Pipe Co. et al.) (justification for limiting choice of materials)
11. Meriden, CT (I, 10–10–79) (Standard Engineers and Constructors, Inc.)
12. Miami-Dade Water and Sewer Authority, FL (IV, 10–3–79) (Radiation Dynamics, Inc.)
13. Monterey County, CA (IX, 2–26–79) (Moneterey Construction Surveys, Inc.)
14. Skagit County, WA (X, 5–4–79) (Glantz Supply, Inc.)

E.E.O.

1. Skagit County, WA (X, 5–4–79) (Glantz Supply, Inc.)
2. Meriden, CT (I, 10–10–79) (Standard Engineers and Constructors, Inc.)

Evaluation of Bids

1. Cleveland Regional Sewer District, OH (V, 8–14–79) (Water Pollution Control Corp.)
2. Cleveland Regional Sewer District, OH (V, 9–18–79) (Passavant Corp.)
3. Cleveland Regional Sewer District, OH—Reconsideration (V, 10–18–79) (Water Pollution Control Corp.) (*Per* Norton Co.)
4. Cleveland Regional Sewer District, OH—Clarification (V, 12–28–79) (Water Pollution Control Corp.) (O and M Costs)
5. Cochran, GA (IV, 9–14–79) (Municipal & Industrial Pipe Services, Ltd.)
6. Hannibal, MO (VII, 6–7–79) (U.S. Enviro-Con, Inc.) (equipment listing)
7. Mt. Pleasant, MI (V, 6–25–79) (Collavino Brothers Construction Co.)
8. Passaic Valley Sewerage Commissioners, NJ (II, 4–13–79) (Passavant Corp.) (adequate basis for evaluation provided in IFB)
9. Portage, MI (V, 12–31–79) (Tom Robinson & Son, Inc.)
10. West County Agency, CA (IX, 6–28–79) (R. D. Smith)
11. Wood County Parks and Recreation Commission, WV (III, 3–15–79) (GAL Construction, Inc. (tied contracts)

Experience Requirements

1. Barnstable, MA (I, 8–24–79) (Chemcon, Inc.)
2. De Kalb Sanitary District, IL (V, 2–15–79) (Autotrol Corp.) (RBD equipment)
3. Howard County, MD (III, 2–15–79) (Water Pollution Control Corp.)
4. Seaford, DE (III, 1–8–79) (National Hydro Systems, Inc.)

Formal Advertising

No entries.

Grantee Responsibilities

1. Cleveland Regional Sewer District, OH—Clarification (V, 12–28–79) (Water Pollution Control Corp.)
2. Cochran, GA (IV, 9–14–79) (Municipal and Industrial Pipe Service, Ltd.)
3. Conneaut, OH (V, 7–18–79) (Hoff-Weston)
4. Gainesville, GA (IV, 6–15–79) (National Hydro System, Inc. (II)) (review of shop drawings, notification of defects)
5. Glenbard Wastewater Authority, IL (V, 4–6–79) (USEMCO, Inc.)
6. Monterey County, CA (IX, 2–26–79) (Monterey Construction Surveys, Inc.)

Innovative and Alternative Technology

1. Miami—Dade Water and Sewer Authority, FL (IV, 10–3–79) (Radiation Dynamics, Inc.)

Judicially Directed Review

No entries.

Jurisdiction

1. Albuquerque, NM (VI, 2–2–79) (Kent Nowlin Construction Co.)
2. Clarksburg, MA (I, 8–25–79) (Curran Associates, Inc.)
*3. Conneaut, OH (V, 7–18–79) (Hoff-Weston)
4. Detroit, MI (V, 6–29–79) (C. T. Rogers Construction Co., et al., A Joint Venture) (State or local law question)
5. Gainesville, GA (IV, 6–15–79) (National Hydro Systems, Inc., (II)) (by or for the grantee)
6. Hannibal, MO (VII, 6–7–79) (U.S. Enviro-Con, Inc.) (lack of direct grantee involvement)
7. Howard County, MO (III, 2–15–79) (Water Pollution Control Corp.) (not by or for grantee)
8. Metropolitan Sanitary District of Greater Chicago, IL (V, 8–16–79) (Troesch Trucking, Inc.)
*9. Metropolitan Sanitary District of Greater Chicago, IL (V, 10–11–79) (Morrison-Knudsen-Paschen) (mistake)
10. Middletown, DE (III, 9–17–79) (Mt. Joy Construction, Co.) (change order is not procurement)
*11. Muskegon County, MI (V, 7–29–79) (Video Media Corp.) (post performance claims)
12. Newton, IA (VII, 12–6–79) (Municipal and Industrial Pipe Services, Ltd. (forfeiture of bond)
13. Frederick County, MD (III, 4–19–79) (Conewago Contractors, Inc.) (retainage not a procurement issue)
14. Sterling, IL (V, 3–9–79) (Neptune CPC Engineering Corp.)
15. Stillwater, OK (VI, 3–1–79) (Robicon Corp.) (subcontracts)
16. Suffolk County, NY (II, 9–15–79) (Spencer, White & Prentis, Inc. and

Seatec International, Ltd., A Joint Venture) (claims)

Minority Business Enterprise

1. Burlingame, CA (IX, 12-20-79) (D. W. Young Construction Co.)
2. Danville, KY (IV, 10-26-79) (Andrews Enterprises Inc.)
*3. Decatur, AL (IV, 7-23-79) (International Electric Co.) (good faith efforts)
*4. Detroit, MI (V, 12-11-79) (Dynamic Construction Co.)
5. Meriden, CT (I, 10-4-79) (Carter Construction Co.)
6. Metropolitan Sanitary District of Greater Chicago, IL (V, 8-16-79) (Troesch Trucking, Inc.)
7. Miami—Dade Water and Sewer Authority, FL (IV, 4-30-79) (Cobo Co.)
8. Monterey County, CA (IX, 2-26-79) (Monterey Construction Surveys, Inc.)
*9. Sewer Authority Mid-Coastside, CA (IX, 7-23-79; errata (9-21-79)) (Radco Construction, Inc.)
10. West County Agency, CA (IX, 6-28-79) (R. D. Smith)

Mistake

1. Jackson, CA (IX, 7-5-79) (Joseph R. Ramos Pipeline Engineering) (mathematical errors)
*2. Metropolitan Sanitary District of Greater Chicago, IL (V, 10-11-79) (Morrison-Knudson-Paschen)
*3. Sewer Authority Mid-Coastside, CA (IX, 7-23-79; errata 9-21-79)) (Radco Construction, Inc.)
4. Newton, IA (VII, 12-6-79) (Municipal and Industrial Pipe Services, Ltd.)

Negotiated Procurement

No entries.

Nonrestrictive Specifications

1. Aurora Sanitary District, IL (V, 7-3-79) (Ralph B. Carter Co.) (prequalification of suppliers)
2. Batesville, AR (VI, 1-12-79) (Hinde Engineering Co.)
3. Chattanooga, TN (IV, 3-27-79) (Performance Systems, Inc.)
4. Cochran, GA (IV, 9-14-79) (Municipal and Industrial Pipe Services, Ltd.)
*5. Decatur, AL (IV, 3-2-79) (Johnson Controls, Inc.) (manufacturers only)
6. Gainesville, GA (IV, 11-5-79) (National Hydro Systems, Inc.) (III) (application of specifications)
7. Glenbard Wastewater Authority, IL (V, 4-6-79) (USEMCO, Inc.)
*8. Laurens County, SC (IV, 7-10-79) (Carolina Concrete Pipe Co. et al.) (pipe)
9. Middletown, DE (III, 9-17-79) (Mt. Joy Construction Co.) (rejection of pre-approved supplier)

Patents

1. Macon-Bibb County Water and Sewage Authority, GA (IV, 3-16-79) (Shirco, Inc.)

Prequalification

*1. Atlanta, GA (IV, 3-21-79) (Fruin-Conlon Corp.)
*2. Aurora Sanitary District, IL (V, 7-3-79) (Ralph B. Carter Co.)
3. Decatur, AL (IV, 3-2-79) (Johnson Controls, Inc.)
4. Macon-Bibb County Water and Sewage Authority, GA (IV, 3-16-79) (Shirco, Inc.)

Procedure

1. Aberdeen, MD (III, 9-7-79) (Chemcon, Inc.) (no proper protest w/o grantee determination)
2. Bardstown, KY (IV, 1-3-79) (E. H. Hughes Co. (I)) (notification of other parties)
3. Decatur, Sanitary District, IL (V, 2-15-79) (Autotrol Corp.) (notice to all interested parties)
5. Gainesville, GA (IV, 11-5-79) (National Hydro Systems, Inc. (III)) (EPA de novo review)
6. Greenville, TX (VI, 5-31-79—Reconsideration) (Ralph B. Carter Co.) (Per Parkson Corp.)
7. Hagerstown, MD (III, 1-4-79) (PCI Ozone Corp.) (telegraphic determination)
8. James Island Public Service District, SC (IV, 5-2-79) (Pyramid Builders, Inc.) (telegraphic determination)
9. Macon-Bibb County Water and Sewage Authority, GA (IV, 3-16-79) (Shirco, Inc.) (telegraphic determination)
10. Meridian, MS (IV, 1-15-79) (Mississippi Pump and Equipment Co.)
11. Metropolitan Sanitary District of Greater Chicago, IL (V, 8-16-79) (Troesch Trucking Inc.) (failure to file with grantee)
12. Miami-Dade Water and Sewer Authority, FL (IV, 4-30-79) (Cobo Co.)
13. Middletown, DE (III, 9-17-79) (Mt. Joy Construction Co.) (change order not procurement)
* 14. Mill Hall, PA (III, 1-29-79) (Municipal and Industrial Pipe Services, Ltd.) (failure to prosecute appeal)
15. Monterey County, CA (IX, 2-26-79) (Monterey Construction Surveys, Inc.)
16. Plainfield, CT (I, 12-11-79) (Greenman's Trucking, Inc.) (letter: full decision to follow)
17. Seaford, DE (III, 1-8-79) (National Hydro Systems, Inc.) (grantee's failure to comply with its harmless error)
18. Simpsonville, KY (IV, 4-17-79) (Warner A. Broughman III and Associates) (failure to file with grantee)

Program Integrity

1. Alburquerque, NM (VI, 2-2-79) (Kent Nowlin Construction Co.)

Rational Basis Test

1. Atlanta, GA (IV, 3-21-79) (Fruin-Conlon Corp.)
2. Caldwell, ID (X, 11-1-79) (Neilsen Co.)
3. Hannibal, MO (VII, 6-7-79) (U.S. Enviro-Con, Inc.)
4. Laurens County, SC (IV, 7-10-79) (Carolina Concrete Pipe Co., et al.)
5. Detroit, MI (V, 6-29-79) (C. J. Rogers Construction Co., et al., A Joint Venture)
6. Metropolitan Sanitary District of Greater Chicago, IL (V, 10-11-79) (Morrison-Knudsen-Paschen)
7. Monterey County, CA (IX, 2-26-79) (Monterey Construction Surveys, Inc.)
8. Newton, IA (VII, 12-6-79) (Municipal and Industrial Pipe Services, Ltd.)
9. Portage, MI (V, 12-31-79) (Tom Robinson & Son, Inc.)
10. Greenup County, KY (IV, 11-13-79) (W. Rogers Co.)
11. West County Agency, CA (IX, 6-28-79) (R. D. Smith)

Reconsideration of Administrative Determinations

* 1. Cleveland Regional Sewer District OH-Reconsideration (V, 10-18-79) (Water Pollution Control Corp.) (*Per* Norton Co.)
2. Cleveland Regional Sewer District OH-Clarification (V, 12-28-79) (Water Pollution Control Corp.)
3. Greenville, TX-Reconsideration (VI, 5-31-79) (Ralph B. Carter Co.) (*Per* Parkson Corp.)

Rejection of All Bids

1. Albuquerque, NM (VI, 2-2-79) (Kent Nowlin Construction Co.)
2. Bardstown, KY (IV, 5-24-79) (E. H. Hughes Co. (II))
3. Bend, OR (X, 5-15-79) (Industrial Pump Sales Co.) (RA directed, defective IFB)
4. Detroit, MI (V, 6-29-79) (C. J. Rogers Constructors, et al., A Joint Venture) (local share lacking)
5. Suffolk County, NY (II, 9-15-79) (Spencer, White & Prentis, Inc. and Seatec International, Ltd., A Joint Venture)
6. Wheeling, WV (III, 2-16-79) (Manning Environmental Corp; and Sugmamotor, Inc.) (change in grantee's needs)
7. Greenup County, KY (IV, 11-13-79) (W. Rogers Co.) (cannot fund non-federal share)

Responsibility

1. Bardstown, KY (IV, 1-3-79) (E. H. Hughes Co. (I))

2. Barnstable, MA (I, 8-24-79) (Chemcon, Inc.)
3. Burlingame, CA (IX, 12-20-79) (D. W. Young Construction Co.) (failure to complete MBE form)
4. Caldwell, ID (X, 11-1-79) (Neilsen & Co.) (licenses)
* 5. Cleveland Regional Sewer District, OH (V, 9-18-79) (Passavant Corp.) (failure to complete local EEO form)
6. Detroit, MI (V, 12-11-79) (Dynamic Construction Co.)
7. James Island Public Service District, SC (IV, 5-2-79) (Pyramid Builders, Inc.)
8. Skagit County, WA (X, 5-4-79) (Glantz Supply, Inc.)

Responsiveness

1. Alpine Sanitary District, AZ (IX, 9-26-79) (Gus's Trenching and Pipeline Co.)
2. Bardstown, KY (IV, 1-3-79) (E. H. Hughes Co. (I))
3. Caldwell, ID (X, 11-1-79) (Neilsen and Co.)
4. Chattanooga, TN (IV, 3-27-79) (Performance Systems, Inc.)
5. Cleveland Regional Sewer District, OH (V, 8-14-79) (Water Pollution Control Corp.)
* 6. Cleveland Regional Sewer District, OH (V, 9-18-79) (Passavant Corp.) (qualified bid)
7. Cleveland Regional Sewer District, OH-Reconsideration (V, 10-18-79) (Water Pollution Control Corp.) (*Per* Norton Co.)
8. Cochran, GA (IV, 9-14-79) (Municipal and Industrial Pipe Services, Ltd.)
9. Detroit, MI (V, 12-11-79) (Pollutec, Inc., and Glenn E. Wash Associates, A Joint Venture) (exception to IFB)
10. Detroit, MI (V, 12-11-79) (Dynamic Construction Co.) (bid bond)
11. East Bay Dischargers Authority, CA (IX, 11-16-79) (Brantley Instruments) (Contra Costa Electric, Inc.) (exception to IFB)
12. Hannibal, MO (VII, 6-7-79) (U.S. Enviro-Con Inc.) (rejection of unapproved equipment)
13. Jackson, CA (IX, 7-5-79) (Joseph R. Ramos Pipeline Engineering) (waiver of mistake; failure to acknowledge addendum)
14. James Island Public Service District, SC (IV, 5-2-79) (Pyramid Builders, Inc.)
* 15. Kansas City, MO (VII, 12-20-79) (Garney Companies) (exception to IFB)
16. Meriden, CT (I, 10-10-79) (Standard Engineers and Constructors, Inc.) (failure to file EEO certificate)
* 17. Mt. Pleasant, MI (V, 6-25-79) (Collavino Brothers Construction Co.) (subcontractor listing)
18. Portage, MI (V, 12-31-79) (Tom Robinson & Son, Inc.)
19. Skagit County, WA (X, 5-4-79) (Glantz Supply, Inc.) (EEO certificates)

Salient Requirements

1. East Bay Dischargers Authority, CA (IX, 11-16-79) (Brantley Instruments) (Contra Costa Electric, Inc.)

Small Business

No entries.

Sole Source

1. Cape May County, NJ (II, 8-31-79) (Clow/Envirodisc Corp.) (cost effectiveness analysis procedure)
2. De Kalb Sanitary District, IL (V, 2-15-79) (Autotrol Corp.)
* 3. Miami-Dade Water and Sewer Authority, FL (IV, 10-3-79) (Radiation Dynamics, Inc.) (justification)

Specifications

No entries.

Standing

1. Batesville, AR (VI, 1-12-79) (Hinde Engineering Co.)
2. Clarksburg, MA (I, 8-25-79) (Curran Associates Inc.)
3. Concord, NH (I, 10-4-79) (Bethlehem Steel Corp.)
4. Conneaut, OH (V, 7-18-79) (Hoff-Weston)
*5. Decatur, AL (IV, 3-2-79) (Johnson Controls, Inc.)
6. Decatur, AL (IV, 7-23-79) (International Electric Co.)
7. De Kalb Sanitary District, IL (V, 2-15-79) (Autotrol Corp.) (equipment supplier)
8. Gainesville, GA (IV, 6-15-79) (National Hydro Systems, (II)).(by or for grantee)
9. Hagerstown, MD (III, 1-4-79) (PCI Ozone Corp.) (suppliers direct financial interest)
10. Laurens County, SC (IV, 7-10-79) (Caroline Concrete Pipe Co., et al.)
11. Macon-Bibb County Water and Sewage Authority, GA (IV, 3-16-79) (Shirco, Inc.) equipment suppliers protesting responsiveness of prime bidder)
12. Meriden, CT (I, 10-4-79) (Carter Construction Co.) (MBE)
13. Seaford, DE (III, 1-8-79) (National Hydro Systems, Inc.)
14. Stillwater, OK (VI, 3-1-79) (Robicon Corp.)
*15. Sterling, IL (V, 3-9-79) (Neptune CPC Engineering Corp.)

Sua Sponte Review

*1. Albuquerque, NM (VI, 2-2-79) (Kent Nowlin Construction Co.) (initial review by RA)
2. Atlanta, GA (IV, 3-21-79) (Fruin-Conlon Corp.) (grantee bidder qualification practices)
3. Cochran, GA (VI, 9-14-79) (Municipal and Industrial Pipe Services, Ltd.)
4. Glenbard Wastewater Authority, IL (V, 4-6-79) (USEMCO, Inc.)
5. Jefferson Parish, LA (VI, 3-28-79) (Moore, Gardener and Associates) (selection criteria for engineering contract)
6. Kansas City, MO (VII, 12-20-79) (Garney Companies)
7. Mt. Pleasant, MI (V, 6-25-79) (Collavino Brothers Construction Co.)

Subcontracts—Award

1. Aurora Sanitary District, IL (V, 7-3-79) (Ralph B. Carter Co.)
2. Gainesville, GA (IV, 6-15-79) (National Hydro Systems, Inc. (II)) (substitution of equipment, business judgment)
3. Gainesville, GA (IV, 11-5-79) (National Hydro Systems, Inc. (III))
4. Hannibal, MO (VII, 6-7-79) (U.S. Enviro-Con, Inc.) (business judgment)
5. Howard County, MD (III, 2-15-79) (Water Pollution Control Corp.) (business judgment).
6. Sterling, IL (V, 3-9-79) (Neptune CPC Engineering Corp.) (substitution, business judgment)
7. Stillwater, OK (VI, 3-1-79) (Robicon Corp.)

Summary Disposition

1. Aberdeen MD (ILL, 9-7-79) (Chemcon, Inc.) (failure to file with grantee)
2. Caldwell, ID (X, 11-1-79) (Neilsen & Co.)
3. Chattanooga, TN (IV, 3-27-79) (Performance Systems, Inc.)
4. Clarksburg, MA (I, 8-25-79) (Curran Associates, Inc.)
5. Decatur, AL (IV, 3-2-79) (Johnson Controls, Inc.)
6. Decatur, AL (IV, 7-23-79) (International Electric Co.)
7. Hagerstown, MD (III, 1-4-79) (PCI Ozone Corp.)
8. James Island Public Service District, SC (IV, 5-2-79) (Pyramid Builders, Inc.)
9. Macon-Bibb County Water and Sewage Authority, GA (IV, 3-16-79) (Shirco Inc.)
10. Meridian, MS (IV, 1-15-79) (Mississippi Pump and Equipment Co.) (untimely protest)
11. Puerto Rico Environmental Quality Board, PR (II, 3-30-79) (Technologists International, Inc.)
12. Muskegon County, MI (V, 7-29-79) (Video Media Corp.)
13. Metropolitan Sanitary District of Greater Chicago, IL (V, 8-16-79) (Troesch Trucking, Inc.)
14. Meriden, CT (I, 10-4-79) (Carter Construction Co.)
15. Miami-Dade Water and Sewer Authority, FL (IV, 4-30-79) (Cobo Construction Co.)

16. Mill Hall, PA (III, 1–29–79) (Municipal and Industrial Pipe Services, LTD.)
17. Plainfield, CT (I, 12–11–79) (Greenman's Trucking, Inc.)
18. Frederick County, MD (III, 4–19–79) (Conewago Contractors, Inc.)
19. Greenup County, KY (IV, 11–13–79) (W. Rogers Co.)
20. Rocky Mount, NC (IV, 1–15–79) (Enviro Development Co.)
21. City and County of San Francisco, CA (IX, 12–20–79) (Chemcon, Inc)
22. Simpsonville, KY (IV, 4–17–79) (Warner A. Broughman III and Associates)
23. Stillwater, OK (VI, 3–1–79) (Robicon Corp.)
24. Wood County Parks and Recreation Commission, WV (III, 3–15–79) (GAL Construction, Inc.)
25. Worchester County (Ocean City), MD (III, 3–14–79) (Charles E. Brohawn and Brothers, Inc. (II))

System Design

1. Kansas City, MO (VII, 12–20–79) (Garney Companies) (tunnelling)
2. Metropolitan Sanitary District of Greater Chicago, IL (V, 8–16–79) (Troesch Trucking, Inc.)

Time Limitations

1. Atlanta, GA (IV, 3–21–79) (Fruin-Conlon Corp.)
2. Chattanooga, TN (IV, 3–27–79) (Performance Systems, Inc.)
3. Concord, NH (I, 10–4–79) (Bethlehem Steel Corp.)
4. Danville, KY (IV, 10–26–79) (Andrew Enterprises, Inc.)
*5. Decatur, AL (IV, 3–2–79) (Johnson Controls, Inc.)
6. De Kalb Sanitary District, IL (V, 2–15–79) (Autotrol Corp.)
7. Detroit, MI (V, 12–11–79) (Pollutech, Inc. and Glenn E. Wash Associates, A Joint Venture)
8. Howard County, MD (III, 2–15–79) (Water Pollution Control Corp.)
9. Kansas City, MO (VII, 12–20–79) (Garney Companies, Inc.) (exception to specifications)
10. Laurens County, SC (IV, 7–10–79) (Carolina Concrete Pipe Co., et al.) (pipe specifications)
11. Meridan, MS (IV, 1–15–79) (Mississippi Pump and Equipment Co., Inc.)
12. Meriden, CT (I, 10–4–79) (Carter Construction Co.)
13. Metropolitan Sanitary District of Greater Chicago, IL (V, 8–16–79) (Troesch Trucking Inc.)
14. Miami-Dade Water and Sewer Authority, FL (IV, 4–30–79) (Cobo Co., Inc.)
15. Passaic Valley Sewerage Commissioners, NJ (II, 4–18–79) (Passavant Corp.)
16. Plainfield, CT (I, 12–11–79) (Greenman's Trucking, Inc.)
17. Rocky Mount, NC (IV, 1–15–79) (Enviro Development Co.)
18. City and County of San Francisco, CA (IX, 12–20–79) (Chemcon, Inc.)
19. Simpsonville, KY (IV, 4–17–79) (Warner A. Broughman III and Associates)
20. Stillwater, OK (VI, 3–1–79) (Robicon, Corp.)
21. Worchester County (Ocean City), MD (III, 3–14–79) (Charles E. Brohawn and Brothers, Inc. (II))

Waiver

1. Alpine Sanitary District, AZ (IX, 9–26–79) (Gus's Trenching and Pipeline Co.)
2. Bardstown, KY (IV, 1–3–79) (E. H. Hughes Co.) (I)
3. Detroit, MI (V, 12–11–79) (Dynamic Construction Co., Inc.)
4. Jackson, CA (IX, 7–5–79) (Joseph R. Ramos Pipeline Engineering)
5. James Island Public Service District, SC (IV, 5–2–79) (Pyramid Builders, Inc.)
6. Kansas City, MO (VII, 12–20–79) (Garney Companies)

U.S. Environmental Protection Agency

Date: August 26, 1980.
Subject: Class Deviation from 40 CFR 35.910–2(c), Reallotment of Recoveries
From: Evelyn T. Thornton, for Harvey Pippen, Jr., Director, Grants Administation Division (PM–216)
To: Regional Administrators

Recently one Regional Administrator asked me to approve a deviation from 40 CFR 35.910-2(c) of EPA's construction grant regulations. Section 35.910-2(c) requires that construction grant recoveries be treated like the most recent appropriation for the purposes of reallotment. (Recoveries are funds which EPA deobligates after the initial period of availability of those funds.) For example, this means that funds which EPA deobligated after their initial period of availability (recoveries) and during the time when the fiscal year 1979 appropriation was the most recent—from October 1, 1978 to September 30, 1979—would be subject to reallotment, if not reobligated, after September 30, 1980.

Without the deviation some States would have substantial amounts of fiscal year 1977 and fiscal year 1979 recoveries subject to reallotment this year. By approving a class deviation on May 1, 1980, I extended the reallotment date for fiscal year 1977 recoveries to September 30, 1980. I approved that deviation as an interim measure because of the short time those funds were available for obligation before May 3, 1980 (the fiscal year 1977 reallotment date), after they were distributed to the Regions, and to provide time to consider all implications of the Regional Administrator's request.

Several factors influenced our further consideration of the request including—

- EPA's current accounting system does not accurately track recoveries from year to year;
- EPA has not previously fully implemented § 35.910–2(c); and
- Regional Offices have generally considered recoveries as "no-year" money.

Other Regional Offices have advised me that, because of their past experience in holding recoveries from year to year, they are not prepared to obligate their fiscal year 1979 and prior year recoveries before September 30, 1980. Because of this and our difficulty in identifying recoveries subject to reallotment on September 30, I have concluded it would be inappropriate to reallot fiscal year 1977 and fiscal year 1979 recoveries on September 30, 1980. As a result, I am approving a class deviation to that section for recoveries made through September 30, 1979.

Financial Management Division has developed an accounting system that will track unobligated fiscal year 1979 and prior year recoveries together with recoveries made this fiscal year through September 30, 1980, separately from those made during fiscal year 1981. Recoveries through September 30, 1980, will be subject to reallotment on October 1, 1981, if not obligated by September 30, 1981. Future recoveries will also be tracked to assure they are realloted at the appropriate time.

This deviation does *not* affect the period of availability of fiscal year 1979 funds which will be subject to reallotment on September 30, 1980, if not obligated.

Date: August 22, 1980.

Conrad W. Carter,

Acting Assistant Administrator for Planning and Management (PM–208).

Date: August 26, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management (WH–556).

[FR Doc. 80-26669 Filed 9-3-80; 8:45 am]
BILLING CODE 6560-01-M

Federal Register

Thursday
September 4, 1980

Part IV

Department of Agriculture

Federal Grain Inspection Service

Official Agency Geographic Area; Four County Area of Northwestern Iowa

U.S. DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service Official Agency Geographic Area; Request for Comments on Applicants for Designation in a Portion of a Four County Area of Northwestern Iowa

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties' on the applicants for designation as an official agency in a portion of a four, county area of Northwestern Iowa.

DATE: Comments to be postmarked on or before October 6, 1980.

ADDRESS: Comments should be submitted to USDA, FGIS, Issuance and Coordination Staff, Room 1127, Auditor's Building, 1400 Independence Ave., SW, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, (202) 447-8262.

SUPPLEMENTARY INFORMATION: The May 16, 1980, issue of the Federal Register contained a notice from the Federal Grain Inspection Service requesting applications for designation to provide official services under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the portion of the four county area previously serviced by A. V. Tischer and Son, Inc. Applications were to be postmarked by July 15, 1980. A total of three applications were received.

The names of the applicants for designation are as follows: Fremont Grain Inspection Department, 603 East Dodge Street, Fremont, Nebraska 68025; Joe P. Jaimes, 9445 Connell Drive, Overland Park, Kansas 66212; and Sioux City Inspection & Weighing Agency, Inc., 310 South Floyd Boulevard, Room 302, Sioux City, Iowa 51101.

In accordance with section 800.206(b)(2) of the regulations under the Act, this notice provides interested persons the opportunity to present their views and comments concerning the applicants. All comments must be submitted to the Issuance and Coordination Staff, specified in the address section of this notice and be postmarked not later than October 6, 1980.

A comment period of 30 days is deemed adequate because such a period of time would expedite the designation of an official agency to service the portion of the four county area in Northwestern Iowa. Such a comment period does not impose any undue obligations or requirements on others, and under the circumstances, provides a sufficient period of time for comments.

Consideration will be given to all comments filed and to all other information available to the Administrator of the Federal Grain Inspection Service before a final decision is made with respect to this matter. Notice of the final decision will be published in the Federal Register and the applicants will be informed of the decision in writing.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on August 28, 1980.

Neil E. Porter,

Acting Director, Compliance Division.

[FR Doc. 80-26992 Filed 9-3-80; 8:45 am]

BILLING CODE 3410-02-M

Federal Register

Thursday
September 4, 1980

Part V

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Civil Penalties

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 722, 723, 843 and 845

Civil Penalties, Final Rulemaking

AGENCY: Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior.

ACTION: Final rulemaking.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement adopts final rules, pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA), which would (1) modify the amount of penalties assessed in cases of nonabatement of violations, (2) mandate a review of a permittee's history of violations to determine whether a pattern of violations exists in such nonabatement cases, (3) provide for appropriate enforcement action in such nonabatement cases, and (4) make minor wording changes in Part 723 of the interim regulations so that Part 723 is the same as Part 845 of the permanent regulations.

EFFECTIVE DATE: October 6, 1980.

FOR FURTHER INFORMATION CONTACT: Richard Robinson, Enforcement Specialist, Office of Surface Mining, Department of the Interior, Washington, D.C. 20240, (202) 343-8061.

SUPPLEMENTARY INFORMATION: In this document the Office adopts final rules to modify the amounts of penalties assessed in cases of nonabatement of violations, mandate a review of a permittee's history of violations to determine whether a pattern of violations exists in such nonabatement cases, provide for appropriate enforcement action in such nonabatement cases, and make minor wording changes in Part 723 of the interim regulations so that Part 723 is exactly the same as Part 845 of the permanent regulations. The Department has determined that these final rules are not significant rules and do not require the preparation of a regulatory analysis. An environmental assessment of these regulations has been prepared, and has been made a part of the administrative record for these rules.

Introduction to Final Rules

Conforming Interim to Permanent Regulations

30 CFR 723.2–723.18 are changed to be exactly the same as (except as indicated in this document) the corresponding permanent regulations (30 CFR 845.2–845.20). The basis and purpose of these permanent regulations are explained in the preamble to Part 845 of the proposed permanent regulations, 43 FR 41796–41797 (September 18, 1978), and of the final permanent regulations, 44 FR 15305–15309 (March 13, 1979).

These changes, are for the most part, merely ones of phraseology. The Office responded only to those comments on portions of these regulations which involved substantive changes. Since the procedural areas are not the subject of this rulemaking, the Office believes it is unnecessary to respond to these comments. For instance, a number of commenters suggested changes to the methods by which civil penalty points are assessed in the interim and permanent programs. In this area, there is no difference between the two programs. Such commenters, thus, went beyond the phraseology changes and commented on the substance of the rule which was not revised. The entire rule was reprinted in the text of this rulemaking only for the convenience of the reader, and not for the purpose of inviting public comment.

Penalties for Failure To Abate

The Office has been confronted with a problem in the assessment and the collection of civil penalties under SMCRA. Under section 723.14(a) of the interim regulations as previously written, in cases where a cessation order was issued for failure to abate, the Office was required to assess a daily penalty equal to the amount assessed for the violation or $750, whichever was greater. section 845.15(b) of the permanent regulations and section 518(h) of SMCRA provide that in such cases the Office must assess a daily penalty of not less than $750.

Under the prior interim regulations, if an operator failed to abate a violation for 30 days and if that violation was assessed at $2,000 (the average penalty per violation), the penalty for nonabatement would have been $60,000. If the operator failed to abate two such violations, the total penalty was $120,000. On certain occasions, computation of failure-to-abate penalties under this scheme resulted in clearly excessive amounts considering the nature and effects of the underlying violations of SMCRA.

The rule modification will reduce the potential for assessment of excessive penalties under the interim regulations by reducing the daily penalty to $750, the statutory minimum, except in those cases where the Director determines that a larger amount is appropriate. Nevertheless, even with this modification, the penalty in a failure-to-abate case could quickly become excessive where there is no limitation upon the number of days for which the penalty may be assessed. Furthermore, failure-to-abate penalties computed over a lengthy time period might drive many operators out of business. Many operators have been operating in States where enforcement efforts have historically been weak and penalties low. Without some limitation on the period during which failure-to-abate penalties run, a small-to-medium sized operator might be put out of business with his first such penalty. Since this would not give such an operator a second chance, the Office believes such action would be unduly harsh. While Congress intended that, in certain instances, recalcitrant operators who persist in defying SMCRA not be allowed to continue in business, the Office believes that, in most cases, the appropriate method of effectuating that intent is through an action to suspend or revoke the operator's permit under section 521(a)(4) of SMCRA or other enforcement action under the Act, rather than through the more cumbersome and indirect method of imposing unrealistically large civil penalty assessments.

The Office has adopted certain management measures to reduce the number of cases of nonabatement, such as: using interim steps for abatement where appropriate; attempting to inspect for compliance as close as possible to the final abatement date; increasing efforts to inform operators of the penalties and sanctions for nonabatement; expediting paperwork in nonabatement cases so that the operator receives notice of the penalty accrual as soon as possible; and seeking injunctive, and criminal relief, initiating procedures under section 518(f) of the Act, and using permit suspension and revocation powers more frequently. However, even with better management and with the modification discussed above, but without limitation on the penalty period, cases of nonabatement over lengthy periods would still occur with the consequent potential for excessive penalties.

At the inception of the interim program, the Office had no occasion to anticipate the potential for exorbitant failure-to-abate penalties generated by applying the $750 daily penalty over months, years, or an indeterminate, lengthier period of time. The Office believed that desire to avoid increasing penalties, together with the other sanctions mentioned above, would universally motivate operators to abate violations of SMCRA. Experience under SMCRA has borne out the Office's

beliefs in the vast majority of cases, and the failure-to-abate penalty has proven to be an effective enforcement tool. In some cases, however, the $750 daily penalty has led to alarmingly high totals. Ironically, such high penalties may actually deter effective enforcement by forcing operators out of business and to ultimately abandon unreclaimed sites.

Subsection (h) of section 518 of SMCRA, which provides for the assessment of the $750-per-day penalty for failure-to-abate violations, contains no language limiting the length of time over which the assessment is to be made. Read outside the context of the remainder of section 518, the subsection would seem to require unlimited assessment. However, subsection (c) of section 518 provides as follows:

(c) Upon the issuance of a notice or order charging that a violation of the Act has occurred, The Secretary shall inform the operator *within thirty days* of the proposed amount of said penalty (emphasis added).

The Office is of the opinion that the language quoted above indicates Congress' intention to terminate at thirty days the time over which failure-to-abate penalties may be assessed.

These penalties are assessed in addition to the penalty under Section 518(a) of SMCRA for the violation itself, which penalty may be as much as $5,000. Thus, guided by SMCRA, the Office now intends to avoid uncertainty and confusion by the changes to the interim and permanent regulations to clearly state that failure-to-abate penalties are subject to a thirty-day maximum assessment period. (See 30 CFR 723.15(b)(2), 845.15(b)(2).)

The Office intends to modify any existing assessments in these failure-to-abate cases in accordance with the changes in these regulations, when they become effective, and will so notify affected operators. The Office intends to grant hearing and conference requests as though such recomputations were new assessments. Also, existing cases may be settled for the amounts that would be proper under these final rules.

In addition, as discussed above, the interim civil penalty regulations have been modified to be exactly the same as the corresponding permanent regulations. This includes changing the requirement that the daily penalty for failure-to-abate run from the date of non-abatement, not the date on which the reinspection occurred and the cessation order for failure to abate was issued. The Office recognizes that unless reinspections are carried out on the date set for abatement, an operator who believes he has abated, but who in fact has not, may be assessed unfairly. For instance, if the inspector inspects 20 days later and finds that the operator still has not completely abated, even though he thought he had, the operator would face an additional $15,000 fine, part of which could have been avoided had the inspector inspected on the abatement date.

Accordingly, these final rules provide that the Office will not assess the daily penalty for failure-to-abate during the period from the abatement date set in the notice of violation or cessation order to the date of the OSM reinspection (30 CFR 723.15(b)). Thus, penalties will begin to accumulate on the date that the Office actually reinspects the minesite and determines that the violation cited in the notice of violation or cessation order has not been abated. Such reinspections will normally occur on the date set for abatement unless something unexpected occurs such as an equipment failure, inclement weather, etc.

The Office recognizes that there is a potential for abuse of this modification, and that if the reinspection does not occur on the abatement date, it may be a *de facto* extension of time to abate. However, the Office is coupling this modification with a policy that the Office reinspect on the date set for abatement or within 3 days thereafter.

Lastly, the Office believes that stronger enforcement action must be taken in most cases against those persons who fail to abate their violations within the periods set for such abatement. As part of its scheme to deal with such persons, described at Comment 6 below, the regulations require the Office to take appropriate action pursuant to sections 518(e), 518(f), 521(c), or 521(a)(4) of SMCRA in all cases where a person has failed to abate a violation within 60 days from the date the failure-to-abate cessation order is issued. This requirement is imposed under new subsections 30 CFR 723.15(b)(2) and 845.15(b)(2).

Background

Proposed modifications to 30 CFR Parts 722, 723, 843 an 845 were published in the Federal Register on January 23, 1980 (45 FR 5540). A public hearing was held on February 13, 1980, in Washington, D.C. At the close of the comment period on February 11, 1980, nine commenters had submitted written comments. The transcript of the public hearing and all written comments pertaining to substantive changes in the regulations have been fully and completely considered in the development of these final regulations. Comments pertaining to each section of the regulations have been summarized below to assist the public in understanding the response to each comment and the bases and purposes of the final regulations.

Sections 722.16 and 843.13

1. One commenter suggested that the review for a pattern of violations provided in 30 CFR 722.16(e) and 843.13(f) be limited to violations which are willful or involve an unwarranted failure to comply. The Office rejects this recommendation as unnecessary. The results of such review will be based only on such violations because a permit may be revoked or suspended only if the Director determines that a pattern of violations exists, and that the violations were willfully caused by the permittee or through its unwarranted failure to comply (See 30 CFR 722.16(a) and 843.13(a)).

2. Another commenter suggested that the Office either delete 30 CFR 722.16(e) and 843.13(f), or make its review for a pattern of violations discretionary. Because the rule states that an order to show cause may be issued as appropriate, the Office does not feel that it is necessary to make such review discretionary. Additionally, as mentioned above, the Office believes that such review is especially appropriate in cases of nonabatement of violations. This is true because the failure of operators to correct cited violations in a timely fashion demonstrates an intent to flout the Act. It also creates a gross abuse of the environmental standards of the Act and must be treated accordingly.

The Office believes that if a notice of violation is uncorrected and ripens into a failure-to-abate cessation order, and that such order is in turn uncorrected for at least one month, a serious question arises regarding the permittee's intent to comply with the Act, and it is incumbent upon the Office to examine the permittee's history of violations to determine if a pattern of unwarranted or willful violations exists. While the Office will attempt to review all operations with an eye to enforcement of 521(a)(4) of the Act, it is especially necessary to make such reviews in these cases of chronic non-abatement of violations.

Parts 723 and 845

1. Two commenters recommended that the Office change 30 CFR 723.13(b)(3)(iii), which requires that acts of all persons working on the site be attributed to the person issued the notice or order, unless such acts are those of deliberate sabotage. The commenters suggested that acts of persons not working for the operator

and acts which are unauthorized or beyond the scope of employment, also not be attributed to the person to whom the notice or order was issued. The Office rejects this comment because it is the responsibility of the permittee to control the site and access thereto, and to prevent such violations from occurring on his/her property.

2. Two commenters objected to the Office's statement in the preamble of these proposed rules that failure-to-abate penalties may force operators into bankruptcy because such penalties are not dischargeable in bankruptcy. The Office agrees with the commenters that such penalties are not dischargeable in bankruptcy. However, such penalties may be a cause of operators going out of business. This clarification has been made in the preamble of these final rules.

3. One commenter recommended that the amount of the failure-to-abate penalty bear a direct correlation to the operator's economic position. The Office rejects this comment because the daily penalty is set at a minimum of $750 per day under section 518(h) of the Act. Congress did not differentiate between operators on the basis of an operator's economic position. Even in the case of penalties other than for failure-to-abate situations, the criteria set by Congress in section 518(a) of the Act do not include an operator's ability to pay.

4. One commenter objected to the Office's policy of beginning to accumulate the failure-to-abate penalty on the date that the Office actually reinspects the minesite and determines that the cited violation has not been abated. The Office rejects this comment because it does not feel it is fair to penalize operators for the failure of the Office, in certain instances, to reinspect for compliance with the notice or order on the date set for abatement.

5. One commenter asked for the right to comment on any agency documents describing the management measures adopted by the Office to reduce the number of cases of non-abatement. This comment is rejected. These documents are internal management procedures and the rules are in no way based upon the information contained in these documents. Any person may, of course, request copies of these documents under the Freedom of Information Act. The Office, however, expresses no opinion as to whether these documents are available to the public under that law.

6. One commenter suggested that the Office agree, in nonabatement cases, to take whatever enforcement action or actions are most likely to abate a violation in the most expeditious manner possible and to deter future violations. The commenter recommended that the Office take such action within 45 days from the date the failure-to-abate cessation order is issued.

The Office accepts this suggestion, except that the regulation provides the Office with 60 days from the date the failure-to-abate cessation order is issued to take such action. 30 CFR 723.15(b)(2) and 845.15(b)(2) are amended accordingly. Specifically the amended regulations require the Office to take appropriate action under sections 518(e), 518(f), 521(a)(4) or 521(c) of SMCRA. The Office will also develop an administrative system to insure that appropriate action is taken within the 30-day period after the maximum penalty has been assessed, and that alternative enforcement action will be pursued at least until such time as the violation has been abated except in cases where no enforcement purpose would be served.

The Office considers this suggestion to be appropriate because of the likelihood that one who refuses to comply with a cessation order for more than 30 days is usually flouting the Act and that other effective enforcement or legal action is required. Operators who fail to cease operations and to correct violations when ordered to do so must be subjected as quickly as possible to other enforcement actions. Longstanding violations often cause serious environmental hazards on minesites and must be dealt with in some effective manner. The Office is doing no more than utilizing other enforcement tools already available in the Act to accomplish this end.

7. Two comments were received regarding the Director's discretion to waive the formula in determining a civil penalty under 30 CFR 723.16. One suggestion was that such waiver be used only to lower the amount of a penalty. The Office rejects this comment because it needs the flexibility for cases where waiver of the formula is appropriate, and where the facts as established at the time of the proposed assessment turn out to be different and less favorable to the permittee.

Another commenter suggested adding, "and such exceptional factors as he may deem appropriate," to the criteria to be considered by the Director in determining the amount of the penalty, and the term "detailed" to describe the written explanation of the basis for the assessment in 30 CFR 723.16(b). The Office rejects these recommendations as unnecessary. The Director is already required under 30 CFR 723.16(a) to take exceptional factors into account in determining whether to waive the formula. The Director is also prohibited from using any factors in determining the amount of the penalty other than the four contained in section 518(a) of SMCRA. Finally, the Office feels that the Director's written explanation of the basis for the assessment will be sufficient without the addition of the term "detailed."

8. One commenter requested that the Office serve copies of all records on which an assessment is based, including the inspector's notes, statements and inspection reports, and the worksheet showing the computation of the proposed assessment on the person to whom the notice or order was issued. While these documents are not now served on the person to whom the notice or order was issued, all are available upon request from the Assessment Office and the Regional Office except for the inspector's notes which are merely preparatory to the inspector's statement and the inspection report. The Office finds that it would be administratively cumbersome to routinely include these extra documents in the already large package presently being sent to violators and, therefore, rejects this comment.

9. One commenter suggested that the Office modify 30 CFR 723.18(d)(1) to allow the person assessed a penalty to contest the fact of the violation and not the amount of the penalty even though such person has entered into a settlement agreement. The Office rejects this comment because its adoption would undermine the purpose of settlements. If such person wishes to contest the fact of a violation, he may do so in the hearing provided for in Section 525 of SMCRA if no settlement has been entered into.

10. One commenter recommended changing the last sentence of 30 CFR 723.19(a) to allow a person charged with a violation to contest the fact of the violation irrespective of whether it has been decided in a review proceeding commenced under section 525 of SMCRA and 43 CFR Part 4. The Office rejects this comment because it believes that one hearing on the fact of the violation is sufficient, and any further hearings would unduly burden the administrative system. If a decision was rendered previously on the identical violation which is the subject of a civil penalty review action the earlier ruling would be *res judicata* on the fact of the violation.

Regulation Drafters

These rules have been drafted principally by Harriet B. Marple, Chief, Division of Enforcement; Richard Robinson, Enforcement Specialist,

Office of Surface Mining, Reclamation and Enforcement; John Williams, Staff Attorney; and Marc McGraw, Assistant Solicitor for Enforcement.

Dated: August 25, 1980.

Joan M. Davenport,

Assistant Secretary, Energy and Minerals.

PART 722—ENFORCEMENT PROCEDURES

1. Section 722.16 is revised by adding paragraph (e) as follows:

§ 722.16 Pattern of violations.

* * * * *

(e) Whenever a permittee fails to abate a violation contained in a notice of violation or cessation order within the abatement period set in the notice or order or as subsequently extended, the Director shall review the permittee's history of violations to determine whether a pattern of violations exists pursuant to this section, and shall issue an order to show cause as appropriate pursuant to 30 CFR 723.15(b)(2).

1a. The table of contents for Part 723 is amended by revising the headings for §§ 723.2 and 723.11–723.19, a new § 723.20 is added.

PART 723—CIVIL PENALTIES

Sec.

* * * * *

723.2 Objective.
723.11 How assessments are made.
723.12 When penalty will be assessed.
723.13 Point system for penalties.
723.14 Determination of amount of penalty.
723.15 Assessment of separate violations for each day.
723.16 Waiver of use of formula to determine civil penalty.
723.17 Procedures for assessment of civil penalties.
723.18 Procedures for assessment conference.
723.19 Request for hearing.
723.20 Final assessment and payment of penalty.

Authority: Surface Mining Control and Reclamation Act of 1977, secs. 201, 501, 518 (30 U.S.C. 1211, 1251, 1268).

2. Part 723 is amended by revising each section, including the headings (all but § 723.1) and by adding § 723.2 to read as follows:

§ 723.2 Objective.

Civil penalties are assessed under section 518 of the Act and this Part to deter violations and to ensure maximum compliance with the terms and purpose of the Act on the part of the coal mining industry.

§ 723.11 How assessments are made.

The Office shall review each notice of violation and cessation order in accordance with the assessment procedures described in 30 CFR 723.12, 723.13, 723.14, 723.15, and 723.16 to determine whether a civil penalty will be assessed, the amount of the penalty, and whether each day of a continuing violation will be deemed a separate violation for purposes of the total penalty assessed.

§ 723.12 When penalty will be assessed.

(a) The Office shall assess a penalty for each cessation order.

(b) The Office shall assess a penalty for each notice of violation, if the violation is assigned 31 points or more under the point system described in 30 CFR 723.13.

(c) The Office may assess a penalty for each notice of violation assigned 30 points or less under the point system described in 30 CFR 723.13. In determining whether to assess a penalty, the Office shall consider the factors listed in 30 CFR 723.13(b).

§ 723.13 Point system for penalties.

(a) The Office shall use the point system described in this section to determine the amount of the penalty and, in the case of notices of violation, whether a mandatory penalty should be assessed as provided in 30 CFR 723.12(b).

(b) Points shall be assigned as follows:

(1) *History of previous violations.* The Office shall assign up to 30 points based on the history of previous violations. One point shall be assigned for each past violation contained in a notice of violations. Five points shall be assigned for each violation (but not a condition or practice) contained in a cessation order. The history of previous violations for the purpose of assigning points, shall be determined and the points assigned with respect to a particular surface coal mining operation. Points shall be assigned as follows:

(i) A violation shall not be counted if the notice or order is the subject of pending administrative or judicial review or if the time to request such review or to appeal any administrative or judicial decision has not expired, and thereafter it shall be counted for only one year.

(ii) No violation for which the notice or order has been vacated shall be counted; and

(iii) Each violation shall be counted without regard to whether it led to a civil penalty assessment.

(2) *Seriousness.* The Office shall assign up to 30 points based on the seriousness of the violation, as follows:

(i) *Probability of Occurrence.* The Office shall assign up to 15 points based on the probability of the occurrence of the event which a violated standard is designed to prevent. Points shall be assessed according to the following schedule:

Probability of Occurrence

	Points
None	0
Insignificant	1–4
Unlikely	5–9
Likely	10–14
Occurred	15

(ii) *Extent of potential or actual damage.* The Office shall assign up to 15 points, based on the extent of the potential or actual damage, in terms of area and impact on the public or environment, as follows:

(A) If the damage or impact which the violated standard is designed to prevent would remain within the permit area, the Office shall assign zero to seven points, depending on the duration and extent of the damage or impact.

(B) If the damage or impact which the violated standard is designed to prevent would extend outside the permit area, the Office shall assign eight to fifteen points, depending on the duration and extent of the damage or impact.

(iii) *Alternative.* In the case of a violation of an administrative requirement, such as a requirement to keep records, the Office shall, in lieu of Paragraphs (i) and (ii), assign up to 15 points for seriousness, based upon the extent to which enforcement is obstructed by the violation.

(3) *Negligence.* (i) The Office shall assign up to 25 points based on the degree of fault of the person to whom the notice or order was issued in causing or failing to correct the violation, condition, or practice which led to the notice or order, either through act or omission. Points shall be assessed as follows:

(A) A violation which occurs through no negligence shall be assigned no penalty points for negligence;

(B) A violation which is caused by negligence shall be assigned 12 points or less, depending on the degree of negligence;

(C) A violation which occurs through a greater degree of fault than negligence shall be assigned 13 to 25 points, depending on the degree of fault.

(ii) In determining the degree of negligence involved in a violation and the number of points to be assigned, the following definitions apply:

(A) "No negligence" means an inadvertent violation which was unavoidable by the exercise of reasonable care.

(B) "Negligence" means the failure of a permittee to prevent the occurrence of any violation of his or her permit or any requirement of the Act or this Chapter due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit or the Act due to indifference, lack of diligence, or lack of reasonable care.

(C) "A greater degree of fault than negligence" means reckless, knowing, or intentional conduct.

(iii) In calculating points to be assigned for negligence, the acts of all persons working on the surface coal mining and reclamation site shall be attributed to the person to whom the notice or order was issued, unless than person establishes that they were acts of deliberate sabotage.

(4) *Good faith in attemping to achieve compliance.* (i) The Office shall add points based on the degree of good faith of the person to whom the notice or order was issued in attempting to achieve rapid compliance after notification of the violation. Points shall be assigned as follows:

Degree of Good Faith

	Points
Rapid compliance	−1 to −10
Normal compliance	0

(ii) The following definitions shall apply under Paragraph (b)(4)(i) of this Section:

(A) "Rapid compliance" means that the person to whom the notice or order was issued took extraordinary measures to abate the violation in the shortest possible time and that abatement was achieved before the time set for abatement.

(B) "Normal compliance" means the person to whom the notice or order was issued abated the violation within the time given for abatement.

(iii) If the consideration of this criterion is impractical because of the length of the abatement period, the assessment may be made without considering this criterion and may be reassessed after the violation has been abated.

§ 723.14 Determination of amount of penalty.

The Office shall determine the amount of any civil penalty by converting the total number of points assigned under 30 CFR 723.13 to a dollar amount, according to the following schedule:

Points:	*Dollars*
1	20
2	40
3	60
4	80
5	100
6	120
7	140
8	160
9	180
10	200
11	220
12	240
13	260
14	280
15	300
16	320
17	340
18	360
19	380
20	400
21	420
22	440
23	460
24	480
25	500
26	600
27	700
28	800
29	900
30	1,000
31	1,100
32	1,200
33	1,300
34	1,400
35	1,500
36	1,600
37	1,700
38	1,800
39	1,900
40	2,000
41	2,100
42	2,200
43	2,300
44	2,400
45	2,500
46	2,600
47	2,700
48	2,800
49	2,900
50	3,000
51	3,100
52	3,200
53	3,300
54	3,400
55	3,500
56	3,600
57	3,700
58	3,800
59	3,900
60	4,000
61	4,100
62	4,200
63	4,300
64	4,400
65	4,500
66	4,600
67	4,700
68	4,800
69	4,900
70 and above	5,000

§ 723.15 Assessment of separate violations for each day.

(a) The Office may assess separately a civil penalty for each day from the date of issuance of the notice of violation or cessation order to the date set for abatement of the violation. In determining whether to make such an assessment, the Office shall consider the factors listed in 30 CFR 723.13 and may consider the extent to which the person to whom the notice or order was issued gained any economic benefit as a result of a failure to comply. For any violation which continues for two or more days and which is assigned more than 70 points under 30 CFR 723.13(b), the Office shall assess a civil penalty for a minimum of two separate days.

(b) In addition to the civil penalty provided for in paragraph (a), whenever a violation contained in a notice of violation or cessation order has not been abated within the abatement period set in the notice or order or as subsequently extended pursuant to section 521(a) of the Act, a civil penalty of not less than $750 shall be assessed for each day during which such failure to abate continues, except that:

(1)(i) If suspension of the abatement requirements of the notice or order is ordered in a temporary relief proceeding under section 525(c) of the Act, after a determination that the person to whom the notice or order was issued will suffer irreparable loss or damage from the application of the requirements, the period permitted for abatement shall not end until the date on which the Office of Hearing and Appeals issues a final order with respect to the violation in question; and

(ii) If the person to whom the notice or order was issued initiates review proceedings under section 526 of the Act with respect to the violation, in which the obligations to abate are suspended by the court pursuant to section 526(c) of the Act, the daily assessment of a penalty shall not be made for any period before entry of a final order by the court.

(2) Such penalty for the failure to abate a violation shall not be assessed for more than 30 days for such violation. If the permittee has not abated the violation within the 30-day period, the Office shall take appropriate action pursuant to sections 518(e), 518(f), 521(a)(4) or 521(c) of the Act within 30 days to ensure that abatement occurs or to ensure that there will not be a reoccurrence of the failure to abate.

§ 723.16 Waiver of use of formula to determine civil penalty.

(a) The Director, upon his own initiative or upon written request received within 15 days of issuance of a notice of violation or a cessation order, may waive the use of formula contained in 30 CFR 723.13 to set the civil penalty, if he or she determines that, taking into account exceptional factors present in the particular case, the penalty is demonstrably unjust. However, the Director shall not waive the use of the formula or reduce the proposed assessment on the basis of an argument that a reduction in the proposed penalty could be used to abate violations of the Act, this Chapter, any applicable program, or any condition of any permit or exploration approval. The basis for every waiver shall be fully explained and documented in the records of the case.

(b) If the Director waives the use of the formula, he or she shall use the criteria set forth in 30 CFR 723.13(b) to

determine the appropriate penalty. When the Director has elected to waive the use of the formula, he or she shall give a written explanation of the basis for the assessment made to the person to whom the notice or order was issued.

§ 723.17 Procedures for assessment of civil penalties.

(a) Within 15 days of service of a notice or order, the person to whom it was issued may submit written information about the violation to the Office and to the inspector who issued the notice of violation or cessation order. The Office shall consider any information so submitted in determining the facts surrounding the violation and the amount of the penalty.

(b) The Office shall serve a copy of the proposed assessment and of the worksheet showing the computation of the proposed assessment on the person to whom the notice or order was issued, by certified mail, within 30 days of the issuance of the notice or order. If the mail is tendered at the address of that person set forth in the sign required under 30 CFR 715.12(b) or at any address at which that person is in fact located, and he or she refuses to accept delivery of or to collect such mail, the requirements of this paragraph shall be deemed to have been complied with upon such tender.

(c) Unless a conference has been requested, the Office shall review and reassess any penalty if necessary to consider facts which were not reasonably available on the date of issuance of the proposed assessment because of the length of the abatement period. The Office shall serve a copy of any such reassessment and of the worksheet showing the computation of the reassessment in the manner provided in paragraph (b) of this section, within 30 days after the date the violation is abated.

§ 723.18 Procedures for assessment conference.

(a) The Office shall arrange for a conference to review the proposed assessment or reassessment, upon written request of the person to whom the notice or order was issued, if the request is received within 15 days from the date the proposed assessment or reassessment is mailed.

(b)(1) The Office shall assign a conference officer to hold the assessment conference. The assessment conference shall not be governed by section 554 of Title 5 of the United States Code, regarding requirements for formal adjudicatory hearings. The assessment conference shall be held within 60 days from the date of issuance of the proposed assessment or the end of the abatement period, whichever is later.

(2) The Office shall post notice of the time and place of the conference at the regional, district or field office closest to the mine at least 5 days before the conference. Any person shall have a right to attend and participate in the conference.

(3) The conference officer shall consider all relevant information on the violation. Within 30 days after the conference is held, the conference officer shall either:

(i) Settle the issues, in which case a settlement agreement shall be prepared and signed by the conference officer on behalf of the Office and by the person assessed; or

(ii) Affirm, raise, lower, or vacate the penalty.

(4) An increase or reduction of a proposed civil penalty assessment of more than 25 percent and more than $500 shall not be final and binding on the Secretary, until approved by the Director or his designee.

(c) The conference officer shall promptly serve the person assessed with a notice of his or her action in the manner provided in 30 CFR 723.17(b) and shall include a worksheet if the penalty has been raised or lowered. The reasons for the conference officer's action shall be fully documented in the file.

(d)(1) If a settlement agreement is entered into, the person assessed will be deemed to have waived all rights to further review of the violation or penalty in question, except as otherwise expressly provided for in the settlement agreement. The settlement agreement shall contain a clause to this effect.

(2) If full payment of the amount specified in the settlement agreement is not received by the Office within 30 days after the date of signing, the Office may enforce the agreement or rescind it and proceed according to paragraph (b)(3)(ii) of this section within 30 days from the date of the rescission.

(e) The conference officer may terminate the conference when he determines that the issues cannot be resolved or that the person assessed is not diligently working toward resolution of the issues.

§ 723.19 Request for hearing.

(a) The person charged with the violation may contest the proposed penalty or the fact of the violation by submitting a petition and an amount equal to the proposed penalty or, if a conference has been held, the reassessed or affirmed penalty to the Office of Hearings and Appeals to be held in escrow as provided in paragraph (b) of this section within 30 days from receipt of the proposed assessment or reassessment or 15 days from the date of service of the conference officer's action, whichever is later. The fact of the violation may not be contested, if it has been decided in a review proceeding commenced under section 525 of the Act and 43 CFR Part 4.

(b) The Office of Hearings and Appeals shall transfer all funds submitted under paragraph (a) of this section to the Office, which shall hold them in escrow pending completion of the administrative and judicial review process, at which time it shall disburse them as provided in 30 CFR 723.20.

§ 723.20 Final assessment and payment of penalty.

(a) If the person to whom a notice of violation or cessation order is issued fails to request a hearing as provided in 30 CFR 723.19, the proposed assessment shall become a final order of the Secretary and the penalty assessed shall become due and payable upon expiration of the time allowed to request a hearing.

(b) If any party requests judicial review of a final order of the Secretary, the proposed penalty shall continue to be held in escrow until completion of the review. Otherwise, subject to Paragraph (c) of this Section, the escrowed funds shall be transferred to the Office in payment of the penalty, and the escrow shall end.

(c) If the final decision in the administrative and judicial review results in an order or eliminating the proposed penalty assessed under this part, the Office shall within 30 days of receipt of the order refund to the person assessed all or part of the escrowed account, with interest from the date of payment into escrow to the date of the refund at the rate of 6 percent or at the prevailing Department of the Treasury rate, whichever is greater.

(d) If the review results in an order increasing the penalty, the person to whom the notice or order was issued shall pay the difference to the Office within 15 days after the order is mailed to such person.

PART 843—FEDERAL ENFORCEMENT

3. Section 843.13 is revised by adding paragraph (f) as follows:

§843.13 Suspension or revocation of permits.

* * * * *

(f) Whenever a permittee fails to abate a violation contained in a notice of violation or a cessation order within the abatement period set in the notice or

order or as subsequently extended, the Director shall review the permittee's history of violations to determine whether a pattern of violations exists pursuant to this section, and shall issue an order to show cause as appropriate pursuant to 30 CFR 845.15(b)(2).

PART 845—CIVIL PENALTIES

4. Section 845.15(b) is revised to read as follows:

§845.15 Assessment of separate violations for each day.

* * * * *

(b) In addition to the civil penalty provided for in Paragraph (a), whenever a violation contained in a notice of violation or cessation order has not been abated within the abatement period set in the notice or order or as subsequently extended pursuant to section 521(a) of the Act, a civil penalty of not less than $750 shall be assessed for each day during which such failure to abate continues, except that:

(1)(i) If suspension of the abatement requirements of the notice or order is ordered in a temporary relief proceeding under section 525(c) of the Act, after a determination that the person to whom the notice or order was issued will suffer irreparable loss or damage from the application of the requirements, the period permitted for abatement shall not end until the date on which the Office of Hearings and Appeals issues a final order with respect to the violation in question; and

(ii) If the person to whom the notice or order was issued initiates review proceedings under section 526 of the Act with respect to the violation, in which the obligations to abate are suspended by the court pursuant to section 526(c) of the Act, the daily assesment of a penalty shall not be made for any period before entry of a final order by the court;

(2) Such penalty for the failure to abate a violation shall not be assessed for more than 30 days for each such violation. If the permittee has not abated the violation within the 30-day period, the Office shall take appropriate action pursuant to sections 518(e), 518(f), 521(a)(4), or 521(c) of the Act within 30 days to ensure that abatement occurs or to ensure that there will not be a reoccurrence of the failure to abate.

(Surface Mining Control and Reclamation Act of 1977 (the "Act"), Sections 201, 501, 518, (30 U.S.C. 1211, 1251, 1268)

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Federal Register

Thursday
September 4, 1980

Part VI

Department of Energy

Economic Regulatory Administration

Motor Gasoline Allocation; Adjustments and Downward Certification; Availability of Draft Regulatory Analyses

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA-R-79-23C]

Motor Gasoline Allocation; Adjustments and Downward Certification

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of availability of draft regulatory analysis.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy has prepared for public comment a draft regulatory analysis of the proposals pending under the motor gasoline allocation program which would establish a downward certification procedure for jobbers and other wholesale purchaser-resellers. The draft analysis is set forth in the Appendix to this notice. Written comments are solicited on all aspects of the draft analysis.

DATE: Written comments by October 31, 1980.

ADDRESS: All written comments to: Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA-R-79-23C, Room B-210, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:
Cynthia Ford (Comment Procedures), Economic Regulatory Administration, Room B-210, 2000 M Street, N.W., Washington, D.C. 20461. (202) 653-3971.
William Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461. (202) 653-4055.
C. Eric Hager (Office of Regulatory Policy), Economic Regulatory Administration, Room 7202 2000 M Street, N.W., Washington, D.C. 20461. (202) 653-3974.

SUPPLEMENTARY INFORMATION: On November 30, 1979, ERA proposed for public comment alternative regulatory changes to establish a downward certification and adjustment procedure for wholesale purchaser-resellers of motor gasoline (44 FR 69962, December 5, 1979). Under the allocation program, a wholesale purchaser-reseller's entitlements are determined with reference to the firm's base period supply obligations. When a reseller's base period allocation obligations are increased by an ERA assignment or adjustment, the firm may adjust upward its allocation entitlements by certifying to its suppliers the corresponding increase in accordance with 10 CFR 211.13(C). However, when a reseller's obligations decrease because a relationship with a base period purchaser is terminated, there is no equivalent mandatory procedure to certify to its suppliers the corresponding decrease except where previous upward adjustments have been granted to the firm.

The downward certification proposals were designed to assure that a reseller's entitlements from suppliers match more closely the firm's actual obligations to purchasers. The changes proposed were intended to restore this balance and to resolve the distortions the absence of a downward adjustment is having on the program's effectiveness as a measure of actual supply conditions.

The November 30 notice of proposed rulemaking set forth several alternative methods of achieving this result, and a substantial number of written comments and extensive public testimony have been received. In general, jobbers and their representatives opposed adoption of any rule that would adjust downward reseller allocation entitlements to reflect reduced supply obligations.

After careful review of the issues raised in the comments, ERA decided not to adopt the principal proposal on the grounds that it might operate to divert supply from markets that have experienced no net reduction in demand (45 FR 28148, April 28, 1980). In order to provide opportunity for a more complete exploration of this and other issues, we stated our intent to prepare a regulatory analysis of the alternative proposals.

This is to give notice that a draft regulatory analysis has been prepared and is set forth in the Appendix to this notice.

In general, the findings of the draft analysis are consistent with the ERA's initial conclusion that the allocation program would operate more effectively if some form of downward certification requirement were adopted. The draft analysis assesses the costs and benefits of the alternative provisions and indicates our tentative conclusions on the merit of each. The analysis has also taken into account related aspects of the pending proposals to revise the motor gasoline allocation program set forth in a notice of proposed rulemaking issued on June 6, 1980 (45 FR 40078, June 12, 1980). In this respect, the interaction of each set of proposals is complex, and comment is invited on all aspects of their operation.

Written comments should be submitted by October 31, 1980, to the address indicated in the "Addresses" section of this notice. Comments should be identified on the outside envelope and on the document with the docket number and the designation: "Downward Certification Regulatory Analysis". Ten copies should be submitted.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

No further action will be taken in this proceeding until the comments on the draft regulatory analysis have been received and evaluated.

Issued in Washington, D.C., August 26, 1980.

Hazel R. Rollins,
Administrator, Economic Regulatory Administration.

Appendix—Draft Regulatory Analysis Notice of Proposed Rulemaking Motor Gasoline Downward Certification

I. Introduction

a. *Purpose of Analysis.* The economic Regulatory Administration (ERA) of the Department of Energy (DOE) prepares regulatory analyses of proposed regulations which may either have a major impact on the general economy, individual industries, or geographic regions and levels of government, or may be significant in that they substantially affect public policy.[1] An analysis should present a review of the issues prompting the regulatory proposals and an evaluation of alternative regulatory and non-regulatory solutions.

In the Notice of Proposed Rulemaking issued November 30, 1979 entitled "Motor Gasoline Allocation; Adjustments and Downward Certification", it was determined that adoption of a certification procedure to supplement the existing provisions applicable to gasoline marketers does not require preparation of a regulatory analysis (44 FR 69962, December 5, 1979).

Upon review of the extensive public comment received and its further consideration, the ERA stated that would nonetheless prepare for public review an analysis of the pending alternative proposals (45 FR 28148, April 28, 1980). The analysis will examine the basis for and probable effects of the

[1] Executive Order 12044, "Improving Government Regulations" (43 F.R. 12661, March 23, 1978) and the Department of Energy's Implementing DOE Order 2030.1, "Procedures for the Development and Analysis of Regulations, Standards and Guidelines" (44 F.R. 1032, January 3, 1979).

alternative proposals with particular reference to their applicability to gasoline marketers.

b. *Scope of Analysis.* The gasoline allocation program is designed to alleviate the adverse effects of a supply shortfall at the wholesale level and indirectly thereby upon consumers. During those periods when a supplier has insufficient product to meet its purchasers' base period entitlements, the program recognizes certain priority activities and applies the necessary supply reductions equitably among a supplier's remaining customers. When supply is adequate, purchasers may obtain product from any supplier who has it to sell without risk of losing future allocation entitlements, provided this base period is not changed in the future.

Because the program governs all supplier purchaser relationships at the wholesale level, its operation depends upon firms determining among themselves the applicability of its provisions. As a matter of course, individual relationships may be reviewed by the ERA to consider requests for adjustments and assignments, to resolve disputes among firms, and to determine compliance with its provisions. In most respects, however, the program is self-operating.

The category of marketers to which the pending proposals and this analysis are most directly related include "jobbers" and other firms that fall within the regulatory term "wholesale purchaser-reseller". This term is defined in § 211.51 of the regulations to mean

> any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form.

The definition is intended to include marketers that purchase and resell or transfer product to their own retail facilities, the facilities of independent dealers, or commercial accounts.

While the DOE collects and has available significant data with respect to many features of the allocation program, little information is routinely collected specifically on the activities of wholesale purchaser-resellers. This analysis relies to a large extent on the limited program data available, the information and views provided in rulemaking and other proceedings, and generally available publications. The analysis is not based upon a specific data collection activity. However, the foregoing provide a reasonably reliable basis upon which indicators of probable qualitative effects can be identified.

II. Background

a. *Legislative Objectives.* The statutory authority for the motor gasoline allocation program is the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93–159) as amended, which provides that the program to the maximum extent practicable shall provide for a number of broad objectives in § 4(b)(1) thereof, including

> preservation of an economically sound and competitive petroleum industry; including the priority needs to restore and foster competition in the producing, refining, distribution, marketing, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners, small refiners, nonbranded independent marketers, and branded independent marketers;
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> * * * * *
>
> equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refiners, small refiners, nonbranded independent marketers, branded independent marketers, and among all users;
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> * * * * *
>
> economic efficiency; and
>
> * * * * *
>
> minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms.

The statute, which is scheduled to expire on September 30, 1981 directs that the program be designed and implemented in a manner that (i) meets the nation's priority needs, (ii) distributes remaining supplies equitably and (iii) does so in a manner that preserves the competitive viability of the independent sectors of the industry. The pending downward certification proposals are evaluated in light of these primary objectives.

b. *Current Regulatory Program—1. Supplier Purchaser Relationships.* In general, the regulatory program allocates product to historic purchasers with reference to purchases made during the base period year, November 1977 through October 1978. In a calendar month when supplies are adequate, a purchaser is entitled to receive from its historic suppliers the same volumes that it received during the corresponding month of the base period. Certain bulk purchaser customers engaged in specified priority uses are always entitled to receive their full base period volumes. Remaining purchasers' entitlements are subject to *pro rata* reductions during months for which supply is inadequate to meet all base period obligations. These reductions are made by application of an "allocation fraction."

Allocation entitlements of wholesale purchaser-resellers are determined with reference to each firm's obligations to its base period customers. When a reseller's base period allocation obligations are increased by an ERA assignment or adjustment, a reseller may adjust upward its allocation entitlements by certifying to its suppliers to corresponding increases in accordance with procedures set forth in the regulations. However, when a reseller's obligations decrease because a relationship with a base period purchaser is terminated, there is no equivalent mandatory procedure to certify to its suppliers the corresponding decrease except where previous upward adjustments have been granted to the firm.

2. *Surplus Product Rule.* In cases where supply for a month is in excess of a supplier's monthly allocation obligations, the supplier is deemed to have "surplus product" which certain large or "prime" suppliers are required to report to ERA. In such cases, the ERA can direct the supplier to distribute the product to specific purchasers, to retain the surplus in inventory, or to take other appropriate action. Firms not qualifying as "prime suppliers" need not report the volumes but are required to distribute them in accordance with the surplus product rules.

Unless otherwise directed by ERA, suppliers are required to offer surplus product to their classes of branded and non-branded independent marketer customers in the same proportion that the base period volumes of those classes bear to the base period volumes of all their purchasers. Having done this, a supplier may then distribute the product at its discretion. Suppliers with an allocation fraction of less than or equal to 1.0 may also have "underlifted" product which is that which remains when a base period purchaser fails to take its full allocation for a month. Underlifted product in such circumstances qualifies as surplus and must also be distributed in accordance with the surplus product rules.

3. *Closed Retail Outlets.* Under the current provisions, the product a marketer would have been required to allocate to a retail outlet that closed is required to be offered to its remaining customers either by increasing its allocation fraction if it is less than 1.0, or by distributing the volumes as surplus product.

With regard to closed retail outlets, § 211.106(d)(2) of the regulations provides

> Whenever an operator of a retail sales outlet goes out of business * * * the supplier of

that outlet shall, in calculating its allocation fraction, remove the amount of the allocation entitlement of that retail sales outlet from its supply obligation, unless the right to such allocation has transferred to a successor * * *

Thus, when a retail sales outlet is closed, the supplier must increase the volume made available to its remaining base period coustomers or distribute the product as surplus.

If a closed outlet had been operated by the reseller, it may request that ERA adjust upward the allocations to its remaining retail outlets. A supplier which operates two or more retail outlet's may also reassign up to 30 percent of the allocation entitlement of one retail outlet it operates to another which it operates without further notification to the ERA (§ 211.106(b)(3)(ii)).

4. *Existing Downward Certification Provision.* The only current provision that requires a firm to certify to its supplier a downward adjustment to correspond to reduced supply obligations is set forth in § 211.13(f). This section relates to provisions permitting a wholesale purchaser-reseller to certify to its supplier increased supply obligations as a result of ERA assignments and adjustments made pursuant to § 211.13(c). To obtain upward adjustments to reflect ERA assignments, § 211.13(f) requires the applicant to state that the additional volumes

shall be used only for the purpose stated in the application, shall not be diverted for other uses; and that if its needs decline, the purchaser shall file an amended application for a downward adjustment to its base period use.

In an interpretation of this provision, the DOE stated that the downward certification requirement applies only to the specific volumes for which a previous adjustment has been made and not to the overall supply obligations of the applicant or to categories of uses. *Nelson Oil Co.,* Interpretation 1978–24. Under this provision, the decreased supply obligations attributable to a closed station must be certified as a downward adjustment by a wholesale purchaser-reseller only if the volumes allocated to the closed outlet had previously been the subject of an upward adjustment.[2]

c. *Problems Under the Current Rules.* Since the inception of the allocation program in 1974, mid-level marketer expansion has been occurring at an apparent rate that may have been exaggerated by effects of the allocation regulations. During the period 1974 to 1978, the 28 largest refiners reported a decrease in the gasoline allocation shares of directly supplied retail outlets and reported significant increases for the jobber/chain retailer class of trade.[3] This trend was especially evident for the top eight refiners. In general, refiners have greatly increased the amount of product distributed through jobbers for supply to independent outlets and large consumers. Throughout 1979 and 1980, approximately 49 percent of all refiners' total supplies to independents were delivered through jobbers, up from 36 percent in 1972.[4] While a combination of influences may produce this phenomenon, dramatic shifts in market position during periods when many suppliers have been applying allocation fractions suggest that incentives created by the regulations may be contributing to this growth.

In this respect, ERA continued to receive anecdotal information that some marketers were engaged in manipulation of the adjustment provisions solely in an effort to expand market share. In one case, a refiner reported that a medium sized jobber with an allocation of approximately 600,000 gallons on January 1, 1975, was able by use of upward adjustment procedures to increase its allocation entitlement to more than 10 million gallons by July 31, 1979. The expansion of the jobber's allocation entitlement over the objection of the supplying refiner eventually resulted in reducing the amount supplied to the refiner's remaining base period purchasers to three percent of the volume supplied by the refiner at the point of delivery.

In general, all indicators available to DOE suggest that the market share of non-refiner wholesale purchaser-resellers has increased substantially during the existence of the allocation program. The ERA has not collected reliable data on the extent to which new assignments and upward adjustments are made to resellers. However, the means to receive increases on a relatively liberal basis are available to this class of firms, significant incentives exist to take advantage of these provisions, and extensive anecdotal accounts all point to a probable correlation between use of the upward adjustment provisions and the increases in market share evident for this group.

In addition, there have been indications that relatively large volumes of gasoline flowed out of the regulated distribution system during the gasoline shortfall that occurred in 1979. Since little reliable data on spot market transactions are available to DOE, conclusions on the extent of spot market activity and particularly the types of firms involved in such activity cannot be determined definitively. During this period, there were indications that large volumes of domestic gasoline were being sold in these unallocated markets. On the basis of this and other information, the ERA initiated a number of special investigations into possible violations of the regulations. In general, these investigative efforts have confirmed that abuses were occurring. In one case, a large marketer of gasoline closed more than 200 retail gasoline outlets, yet continued to receive in excess of 12 million gallons a month for which it effectively had no allocation obligation. In the course of this investigation, it was determined that most of this product was diverted to the spot market and possibly lost to the marketing area to which it had been originally allocated.

The current rules dictate specifically the manner in which product freed from lost business is to be allocated. Section 211.106(d)(2) requires suppliers in such cases to increase the allocable supply to remaining customers or to distribute the remaining product as surplus. Diverting such product to the spot market or otherwise disposing of it is a clear violation of the regulations.

In general, however, opportunities for identifying these violations do not arise on a consistent basis. A supplier's remaining customers usually cannot know whether other supplied outlets have been closed, whether the supplier has accounted for the volumes in calculating an allocation fraction or whether the supplier has complied with the surplus product rules. Furthermore, ERA cannot review each supplier purchaser relationship on a case by case basis to determine whether violations of this sort have occurred. A premise of the downward certification proposals is that with the aid of a mandatory notification requirement, a marketer's supplier is in a better position to monitor closely compliance with these procedures. A supplier, particularly during a shortage, will want to be sure that its reseller customers' allocation entitlements match closely their actual obligations. A supplier would be especially alert to a marketer's taking unusual advantage of

[2] In a recent court decision, *Shell Oil Co.* v. *Nelson Oil Co., Inc.*, No. 9–47 (TECA July 21, 1980), the Temporary Emergency Court of Appeals determined that circumstances other than station closings can also trigger the § 211.13(f) downward certification requirement.

[3] DOE, Office of Competition, *The State of Competition in Gasoline Marketing*, Part I, May 1980, p. 102.

[4] DOE, EIA *Petroleum Market Shares* "Report on Sales of Refined Petroleum Products."

provisions enabling it to increase its own entitlements by declaring itself a "willing supplier" for new business. A reluctant supplier would scrutinize carefully the upward adjustment request and have an incentive to insist that a downward certification be made where appropriate. In this respect, a downward certification procedure could provide refiners and other suppliers with a more effective means of assuring that a marketer's supply entitlements reflect actual supply obligations. However, whether such a notification procedure could be enforced in each and every situation remains to be seen.

The absence of a downward certification procedure can also contribute to distortions in the allocation fraction as a measure of actual supply conditions. Each month a supplier is required to offer to its historic purchasers a volume of gasoline equal to the volume purchased during the same month of the base period. When a supplier's total available supply is less than its total obligations, the firm must reduce on a *pro rata* basis the amount supplied to its non-priority purchaseers by the application of an allocation fraction. The numerator of the allocation fraction represents a supplier's allocable supply less obligations to priority use customers and state set-aside volumes. The denominator represents the supplier's base period obligations. If the allocation fraction is less than 1.0, all purchasers whose allocation level is subject to the fraction are offered only that portion of their base period volumes.

A low allocation fraction can reflect either a decrease in supply or an increase in obligations or both. The allocation program cannot increase the amount of product available to a refiner but does operate actively to effect increases and decreases in obligations. This can occur either as a result of the upward adjustment provisions available to firms through new station and interim assignment procedures or the limited downward certification procedure under § 211.13(f). Continuing increases in obligations from a relatively fixed level of allocable supply results in downward pressure on suppliers' allocation fractions. When decreased supply obligations through station closings or other shifts are not accounted for, the accuracy of the allocation fraction as a measure of actual supply conditions is distorted. This could be resulting in lower refiner allocation fractions and less product being available to independent retail dealers that are supplied directly by refiners.

III. Proposed Amendments

a. *Rulemaking History.* On July 15, 1979, ERA adopted, effective September 1, 1979, amendments to the allocation regulations which included a downward adjustment provision for wholesale purchaser-resellers whose supply obligations to retail sales outlets decreased (44 FR 42529, July 19, 1979).[5]

On August 22, 1979, the effective date of the downward certification procedure was deferred until October 1, 1979, and on September 11, 1979, the effective date was deferred again to the date of completion of the pending rulemaking proceedings (44 FR 54041, September 18, 1979). On November 30, 1979, a notice of proposed rulemaking was issued presenting several alternative downward certification proposals and soliciting further public comment (44 FR 69961, December 5, 1979).

Many refiners and others responding to the downward certification proposals contended that the allocation program was being distorted significantly because of the growing imbalance occurring between mid-level marketers' allocation entitlements and their actual supply obligations. Marketers opposed adoption of a downward certification requirement on the grounds that it would severely restrict their ability to respond to demand shifts occurring within their markets and would tend to move product away from the market area they serve. The mechanism under consideration for correction of this effect would have provided that a wholesale purchaser-reseller must adjust downward its base period use by the amount its supply obligations decrease when a retail sales outlet that it supplies goes out of business or otherwise reduces its allocation obligation. On April 21, 1980, ERA announced that it would not adopt the principal downward certification proposal and that the rulemaking proceeding would be continued pending preparation of this regulatory analysis (45 FR 28148, April 28, 1980).

b. *Alternatives Under Consideration.* The alternatives to the principal downward certification proposal described in the December 5, 1979 notice of proposed rulemaking were presented as follows:

The first would require downward adjustments only as a condition precedent to receiving an upward adjustment. Under this alternative, wholesale purchaser-resellers would not be required to adjust downward their base period uses when their supply obligations decrease except to the extent that they wish to certify upward adjustments to their suppliers.

The second would require downward adjustments when retail outlets close but would not require downward adjustments when a reseller is relieved of its obligation to supply wholesale purchaser-consumers or bulk purchaser customers.

The third would require certification of downward adjustments only when a supplier's base period obligations are assumed by another supplier in accordance with the regulations. To a varying extent, ERA requires applicants to account for the reduced obligation when its Regional Offices approve applications for such reassignments.

The fourth would require downward adjustments only for decreased obligations due to station closings that occurred subsequent to the end of the current base period.

The fifth would apply prospectively only from the date of the adoption of a final rule. Under this alternative, marketers would be required to certify to their suppliers downward adjustments for lost business occurring only in the future.

In connection with these alternatives, ERA stated that none are mutually exclusive, and that features from more than one alternative could be included in a final rule.

c. *Effective Date of Alternatives.* The pending proposals present for consideration several proposed effective dates. The principal proposal would have required resellers to certify downward adjustments for amounts that its supply obligations have decreased since the corresponding base period month of the period November 1977 through October 1978. This provision would have required wholesale purchaser-resellers to certify to their suppliers downward adjustments to correspond to all decreased obligations back to October 1978.

One alternative would apply to decreased obligations from station closings occurring prospectively only from the date of adoption of a final rule, thus requiring downward certification for decreased obligations occurring only in the future.

A significant portion of the comments received argued strongly against adoption of any of the alternative proposals on a retroactive basis. Many of the firms commenting opposed a retroactive application on the grounds that severe disruptions within many

[5] On July 19, 1979, a corrective amendment was adopted to include wholesale purchaser-consumers and bulk purchasers as categories of customers for which downward adjustments would be applicable and to clarify that the provision would have applied for decreased supply obligations occurring since the corresponding base period month (44 FR 43458, July 25, 1979).

markets would result, and that the additional administrative burdens imposed on many small firms would outweigh any advantages achieved. In addition, several opposed as inherently unfair, administrative action of any type adopted on a retroactive basis. Because, there is no doubt that a retroactive provision could affect a very large number of base period relationships, the administrative disruptions associated therewith would tend to be out of proportion to possible benefits. On this basis, a potential downward certification procedure is under consideration with respect to prospective application only.

IV Analysis of Alternatives

a. *Downward and Upward Certification Combined.* This alternative would require a marketer to certify to its supplier a downward adjustment only as a condition precedent to receiving an upward adjustment to meet increased supply obligations. This proposed alternative would effectively require a marketer to net out upward and downward adjustments to its allocation obligations. In a case where a marketer is relieved of a base period obligation because an outlet closes, no downward certification would be required except when the firm seeks an increase in its allocation entitlements to supply new business. Under this alternative an upward adjustment would be authorized only for volumes in excess of those no longer obligated to closed stations.

If a firm applied for an ERA assignment for a marketer to supply a new retail outlet at a level of 100,000 gallons per month, and the marketer had experienced a decrease in its supply obligation for a closed outlet of 75,000 gallons, upon receipt of the obligation to supply the new outlet with 100,000 gallons, the marketer would be permitted to certify an upward adjustment of only up to 25,000 gallons per month. If the marketer's lost business equaled 100,000 gallons per month, the new assignment would be made, but no upward adjustment would be granted.

For firms whose upward certification volumes were less than the volumes attributable to decreased supply obligations, no upward adjustment of allocation entitlements would be granted. In this latter example, however, the firm would not be required to certify to its supplier the incremental decrease in obligations to reflect the lost business. The available volumes would only be required to be offered to the firm's other base period purchasers in accordance with existing procedures.

This alternative differs somewhat from the currently effective downward certification provision in § 211.13(f) which requires a reduction in allocation entitlements that had been previously awarded with respect to a specific base period purchaser. The new proposed alternative would require a comparison of firm-wide increases and decreases in obligations without reference to specific purchaser.

1. *Effect on Marketers.* The proposed alternative would not impose upon marketers any affirmative requirement to report to suppliers decreased obligations excxept to the extent upward adjustments for new business are sought. Adoption of this alternative would tend to restrict the present ability of some resellers to increase market share by a combined pattern of applying for upward adjustments and distributing volumes freed from lost business to other purchasers. The alternative would serve to halt this practice with respect to future station closings and would effectively preserve resellers' base period allocation volumes as of the date of its adoption. Reductions in allocation entitlements would be effected only for the purpose of offsetting equivalent upward adjustments sought by a firm. This rule would tend to decrease the ability of jobbers to expand market share solely by manipulation of the allocation regulations.

2. *Effect on Supply.* The alternative would tend to reduce jobbers flexibility to shift volumes within markets and to divert product unlawfully to spot markets. During periods of ample gasoline availability, however, the impact of this provision on supply patterns would tend to be minimal.

Adoption of this proposed procedure would probably result in fewer new station applications because an applicant would be required to account for volumes attributable to closed stations or other lost business. By minimizing the incentive to apply for new station assignments, the rule would tend to reduce the erosion of existing station allocations from which new stations are often supplied and would tend to reduce administrative burdens generally.

If adopted, however, the alternative could also operate as a disincentive to convert outmoded outlets to more efficient operations in those instances where total lost business exceeded new station needs. For example, a firm may be reluctant to consolidate inefficient or unprofitable stations for fear of having to account for volumes it has redistributed from previously closed outlets. This could inhibit improvements in marketing patterns and tend to reduce a marketer's flexibility to respond to actual demand shifts.

The generalized effect the alternative may have upon product movement within markets is difficult to predict. On the one hand, unaccounted for volumes freed prior to the provision's effective date would continue to be effectively available for redustribution across markets. On the other, requiring downward certification when a firm attempts to expand its allocation base would tend to contain product within the firm's current distribution system. In cases where a marketer operates in more than one marketing region, the offering of freed product to all of the firm's base period purchasers could tend to shift some product among markets. However, this is the case presently, and this possible effect would represent no change.

Opponents of a downward certification requirement contend that jobbers would lose flexibility in closing stations for fear of reduced entitlements and that this could encourage maintenance of inefficient stations and lead to higher prices. It could also limit a marketer's ability to direct product to areas experiencing stronger demand, especially during a shortage. On this basis, it has been argued that an active spot market during a shortage is the "grease" that lubricates the allocation mechanism, by directing supply toward areas of most acute demand.

Adoption of a downward certification rule would increase administrative costs to marketers, suppliers, and the ERA. Further, it is argued, the imposition of the increased regulatory burdens in order to curb spot market activity would also contribute to inefficiency, since the level of spot market sales is small as a percentage of national sales. Additional administrative problems could arise under this rule where a firm applies for an upward adjustment and simultaneously certifies its downward adjustments. In such a case, there could be an incentive for a reluctant supplier to effect the downward adjustment immediately and stall the upward adjustment pending administrative approval by ERA. However, the proposed rule would not permit a supplier to act independently to adjust downward a purchaser's entitlements. A downward adjustment would be effected only as a limit on an authorized upward adjustment. In general effect, however, the alternative would to a large extent discourage apparent abuses without disrupting reseller positions within markets.

b. *Downward Certification for Closed Retail Outlets Only.* This alternative would require a firm to certify to its

supplier downward adjustments of allocation entitlements to reflect volumes attributable to closed retail outlets, but not for decreased obligations to wholesale purchaser-consumers or bulk purchasers.

Adoption of this alternative proposal would require a downward certification procedure with respect to the major portion of the volumes governed by the allocation program's supplier purchaser provisions. The volumes supplied to wholesale purchaser-consumers and bulk purchasers tend to be a small percentage of most marketers' sales and would have the advantage of reducing administrative burdens for affected firms. Further, several comments were received to the effect that many bulk purchasers and end-user accounts, such as construction site operators or other short term purchsers, can and do change often, and administrative flexibility is desirable to accommodate these activities.

c. *Downward Adjustment for Supply Assumptions Only.* This alternative would require a firm to certify to its supplier a decrease in its supply obligation attributable to supplier substitution agreements approved by ERA under § 211.25 of the regulations. For example, if Jobber A enters into an agreement to assume Jobber B's base period obligation to supply retailer C, the proposal would require Jobber B to certify to its supplier a reduction in its allocation entitlements to reflect the reduced supply obligation to retailer C. This alternative would operate to assure that supply entitlements properly reflect supply obligations and would achieve the objective of reducing the amount of allocated product available to a firm having no corresponding supply obligation. This is currently a condition imposed by many ERA Regional Offices in approving these agreements and, to this extent, would have little new impact. If adopted in conjunction with the first alternative, the provision would assure that the affected volumes are properly accounted for under the program. Minimal impact on supply patterns would be anticipated under this alternative.

d. *Downward Certification and Pending Proposals to Increase Supplier Flexibility.* Under the current allocation regulations, a wholesale purchaser-reseller's actual supply obligations are reduced when one of its base period purchasers goes out of business. For such firms that wish to redistribute to their remaining customers the gasoline no longer supplied to closed outlets, the regulations permit applicants to petition ERA pursuant to § 211.106(c)(2)(i) for an appropriate adjustment. The principal downward certification provision would have modified the effect of this section by requiring that when a supplier reduced its supply obligation, its allocation entitlement would be decreased by an equivalent amount. Thus, unless the firm petitioned the ERA (which it could only do for its directly operated outlets), the wholesale purchaser-reseller would no longer have been able to keep the product within its distribution system for supply to its remaining customers.

The principal proposal no longer under consideration would have required a certification upon the closing of a retail sales outlet or other lost account. The volumes attributable to the lost business would be certified as reductions up the supply chain to the ultimate supplying refiner. The volumes so certified would then be included as an increase to the refiner's allocable supply for a month and effectively distributed on a *pro rata* basis to all the refiner's base period customers. The principal proposal, would have operated to spread the lost volumes attributable to a closed station across the marketing area of the supplying refiner. This is the effect currently in cases where a refiner operated outlet is closed.

This scheme was based upon an assumption that a closed service station is a good measure of decreased demand within a market. On the basis of the many public comments received, and further consideration, it appears that this assumption in many cases is unwarranted. For example, it has been suggested that many factors can contribute to station closings including changing economics of the outlet operator or owner of the real property upon which it is situated, and changes in demand patterns, demographics, competition, and marketing strategies of outlet operators and suppliers. More importantly, it has been pointed out that station closings often result from a firm's effort to consolidate its retail operations to promote increased marketing efficiencies and to enhance the profitability of its units. Employment of this strategy does not necessarily indicate reduced demand and may be appropriate as often in growth environments as not.

In light of the extensive comment received to this effect, ERA included within its general proposed revisions to the gasoline allocation program proposals that would grant suppliers more flexibility to shift volumes from lost accounts to remaining outlets (45 FR 20078, June 12, 1980).

Under the proposal, suppliers, including refiners, would be permitted to distribute the base period volumes of closed outlets among remaining outlets in any way they choose, provided they do not jeopardize the relative volumes allocable to their independently operated outlets. They would not be permitted to increase the total base period uses of company operated outlets, and such shifts could not be certified as increases in supply obligations.

As stated in the preamble to the June 12 gasoline allocation proposals, the supplier flexibility provisions appear to conflict with objectives of the pending downward certification proposals. In some respects, this may be true. To the extent that retail outlet closings were proposed as a measurement of decreased demand within a market, the two proposals conflict. To the extent that the objective of a downward certification procedure is to assure that a reseller's entitlements match as closely as possible the resellers' actual obligations, the two proposals do not conflict. If volumes are transferred from a closed outlet to a remaining outlet supplied by a firm under the proposed supplier flexibility provisions, the volumes would be included in the base period supply entitlements of the remaining outlets. No downward certification procedure would be necessary, because the supply entitlements of the wholesale purchaser-reseller would still be equivalent to its base period supply obligations. If volumes freed from closed accounts were not included in remaining outlets' base period volumes, they would be certified to suppliers as a downward adjustment to base period entitlements. This operation of the two sets of proposed provisions would be consistent and would tend to assure the accuracy of the allocation fraction as a measure of actual supply.

e. *No Action.* In its preparation of regulatory analyses, the ERA normally considers the costs and benefits of the always available alternative of taking no action. In light of the many implications involved in adopting some form of downward certification procedure, this alternative deserves full consideration. Jobbers and their representatives argued strenuously in favor of this course.

1. *Effect on Marketers.* Since its inception in 1974, the regulatory provisions have operated without any generally applicable requirement to provide for mandatory reductions in base period allocation entitlements to reflect lost business. The apparent effect of the absence of such a requirement in conjunction with the relatively

accessible means such firms have to increase allocations may have contributed to the growth of jobbers as a class. This result is consistent with the program's objective to preserve the independent marketing sector of the industry. An expanding independent marketing segment can operate to assure that competition achieves its goal of improving distribution of supplies and restraining price. This improving position of independent marketers can in part be traced to relatively favorable treatment of this group under the regulations.

However, the objective of the program to minimize interference with market mechanisms may be frustrated by the provisions that contribute to marketer growth beyond that which would be permitted by a free market. The present ability of a jobber to increase the supply it is allocated over the objection of the refiner producing the product would not be available without a regulatory program. In the context of a generally fixed amount of available supply, these increases are often made at the expense of existing retail outlets that have no comparable means of obtaining allocation increases. No action in this proceeding would continue the favorable treatment jobbers receive in this regard, and this could, over the long term, contribute to economic inefficiency. The adverse impacts on the independent retail segment of the market would also continue. By favoring one segment of the independent sector, the viability of another could be jeopardized.

2. *Effect on Supply.* Without a downward certification requirement it can be anticipated that jobbers and other marketers will continue to take advantage of the present liberal upward adjustment procedures to the detriment of competing firms. Failure to adopt a downward certification requirement could result in some illegal spot market activity during times when competing firms have insufficient product to supply base period customers. Further, the disadvantages associated with a distorted allocation fraction would also continue.

The separately proposed revisions to the allocation program could, if adopted, reduce the need for a downward certification procedure. First, the proposed restrictions on new station assignments should result in fewer volumes being diverted to jobbers in this manner. The proposed requirement that all suppliers be "willing" could reduce significantly jobbers' ability to receive increased allocations solely because of the regulations. In addition, the proposed modification that would enable existing retail outlets to obtain increases would encourage more efficient conversions and reduce new station applications, and thereby the increased allocations available to jobbers as a class.

No action taken with respect to a downward certification requirement would serve chiefly to provide a favorable environment for continued jobber expansion at the expense of the retail dealer and continue distortion of the allocation fraction. If the pending proposals (i) to place existing and new stations on the same basis for increases, (ii) to require that all suppliers be "willing" to authorize new assignments and adjustments, and (iii) to increase supplier flexibility are adopted the need for a downward certification provision would appear to be reduced.

V. Conclusion

The unintended regulatory effects that the alternative downward certification proposals are intended to resolve are real and continue today. The regulations have permitted jobbers to draw product away from competing segments of the marketing industry. Further, the continuing distortion of the allocation fraction should be corrected.

While it appears that there is a definite benefit to granting marketers some degree of flexibility to move product within their distribution systems, experience has shown that some abuses can and have occurred during periods of shortfall in gasoline supply. Adoption of a downward certification provision on a prospective basis as a condition to receiving an upward adjustment appears to be the most satisfactory alternative. It could resolve identified problems without the disruptive effects of a retroactive provision.

The downward certification proposal should be considered together with the pending proposed allocation revisions. The adoption of more restrictive standards for new station assignments, the proposed "willing" supplier provisions, and the increased supplier flexibility provisions could diminish the need for a downward certification rule.

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Federal Register

Thursday
September 4, 1980

Part VII

Office of Management and Budget

Budget Rescissions and Deferral

OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferral

To the Congress of the United States

In accordance with the Impoundment Control Act of 1974, I herewith report a new Department of Commerce deferral of $15.8 million in funds for the International Energy Exposition in Knoxville, Tennessee. In addition, I am reporting a revision to a previously transmitted deferral for the National Oceanic and Atmospheric Administration's Coastal energy impact fund increasing the amount deferred by $0.5 million.

The details of each deferral are contained in the attached reports.

Jimmy Carter

The White House,
August 27, 1980.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral #	Item	Budget Authority
	Department of Commerce:	
	General Administration	
D80-73	Participation in United States expositions.....	15,814
	National Oceanic and Atmospheric Administration	
D80-49A	Coastal energy impact fund.....	55,422
	Total, deferrals.....	71,236

* *

SUMMARY OF SPECIAL MESSAGES
FOR FY 1980
(in thousands of dollars)

	Rescissions	Deferrals
Twelfth special message:		
New items.....	---	15,814
Change to amounts previously submitted...	---	500
Effect of the twelfth special message..	---	16,314
Previous special messages.....	1,618,061	10,507,246
Total amount proposed in special messages....	1,618,061	10,523,560 a

a. This amount represents budget authority except for $21,085 thousand involving the deferral of outlays only (D80-23A, D80-51A, D80-52A, and D80-53A).

Deferral No: D80-73

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Commerce	New budget authority (P.L. 96-304) $ 20,800,000
Bureau General Administration	Other budgetary resources ---
Appropriation title & symbol Participation in United States Expositions 130/41805	Total budgetary resources 20,800,000
	Amount to be deferred: Part of year $ 15,814,000 Entire year -0-
OMB identification code: 13-1805-0-1-376	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program [ ] Yes [X] No	[ ] Other
Type of account or fund: [ ] Annual [X] Multiple-year September 30, 1984 (expiration date) [ ] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification: The Supplemental Appropriations and Rescission Act, 1980 (P.L. 96-304) provided $20,800,000 in funds for necessary expenses for designing, constructing, and operating a Federal Pavilion at the Knoxville International Energy Exposition. The funds were designated to remain available through fiscal year 1984. Under present program plans $4,986,000 will be obligated in FY 1980. The remaining $15,814,000 is deferred for use in fiscal years 1981 - 1984.

This deferral action is consistent with the congressional intent to provide multi-year funding for the total cost of this program and is taken under the provisions of the Antideficiency Act (31 U.S.C. 665).

Estimated Effect: This deferral has no programmatic or budgetary effect because the funds would not be used if made available.

Outlay Effect: This deferral has no effect on outlays.

BILLING CODE 3110-01-C

Supplementary Report

Report Pursuant to Section 1014(c) of Pub. L. 93–344

This report revises deferral number D80–49 transmitted to the Congress on April 16, 1980, and printed as House Document No. 96–299.

This revision to a deferral for the National Oceanic and Atmospheric Administration's Coastal energy impact fund increases the amount previously reported as deferred from $54,921,855 to $55,421,855. This increase of $500,000 results from an increase in estimated loan interest receipts for FY 1980.

BILLING CODE 3110-01-M

Deferral No: D80-49A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. _____): $ _____
Bureau: National Oceanic and Atmospheric Administration	Other budgetary resources: 98,189,657 *
Appropriation title & symbol: Coastal Energy Impact Fund 13X4315 1/	Total budgetary resources: 98,189,657 *
	Amount to be deferred: Part of year: $ _____
	Entire year: 55,421,855 *
OMB identification code: 13-4315-0-3-452	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other _____
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

Justification: The Coastal energy impact fund (CEIF) appropriation provides Federal financial assistance, through a program of grants and loans, to meet the needs of coastal States and local communities impacted by Outer Continental Shelf (OCS) and coastal energy development activities.

This deferral was proposed in conjunction with the Administration's effort to reduce the inflationary impact of Federal spending on the general economy.

While it is recognized that the CEIF programs do provide useful benefits to coastal States and communities, it has been determined that this deferral can be made without adversely affecting the economic, social and environmental status of the impacted areas.

Estimated Effects:* This deferral reflects the reservation of $55.4 million in resources of the fund that were previously unapportioned. The deferral -- in conjunction with the related rescission proposal affecting $35.4 million of previously apportioned fund balances -- is being reported to assure that CEIF loan and grant awards will be limited to the level of $42.8 million in FY 1980. This action also will provide the Administration with an opportunity to evalutate the past record of the CEIF and to propose recommendations regarding effective use of the fund. The funds are planned for use in FY 1981.

Outlay Effects:* In conjunction with the rescission associated with this account this deferral merely assures the preservation of previously unapportioned funds intended for use in 1981. Hence, there is no direct outlay effect from this deferral action.

1/ This account is also the subject of a rescission (R80-11).
* Revised from previous report.

[FR Doc. 80-27163 Filed 9-3-80; 8:45 am]
BILLING CODE 3110-01-C

Reader Aids

Federal Register

Vol. 45, No. 173

Thursday, September 4, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders and problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
633-6930	Public Inspection Desk
523-5227	Index and Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Index and Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266	Public Law Numbers and Dates, Slip Laws, U.S.
-5282	Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

475 58505

3 CFR

Executive Orders:
12198 (Amended by EO 12233) 58503
12233 58503
Proclamations:
4786 58325
4787 58327
4788 58329
4789 58331

7 CFR

6 58333
14 58505
908 58509
910 58097
932 58097
946 58098
1421 58333-58334
1464 58509
Proposed Rules:
1079 58131
1139 58366
1940 58557
1942 58557
1980 58557

8 CFR

238 ..... 58098, 58510
Proposed Rules:
Ch. I 58368
212 58131
235 58131
299 58131

10 CFR

212 58510
Proposed Rules:
211 58788
430 58132

12 CFR

204 58099
760 58101

14 CFR

39 ..... 58102, 58103, 58512
71 ..... 58104, 58105
73 58106
152 58107
154 58107
155 58107
Proposed Rules:
39 58133-58136
71 ..... 58136, 58140, 58141
73 58142

15 CFR

370 58334
372 58334
377 58334
Proposed Rules:
Ch. III 58562

17 CFR

140 58514

18 CFR

35 58335
4 58368
272 58374
375 58368

19 CFR

355 58516

20 CFR

404 58107
Proposed Rules:
416 58563

21 CFR

558 58107
Proposed Rules:
193 58494
561 58496
1030 58143

22 CFR

6 58108
6a 58108
171 58108

24 CFR

700 58336
800 58337
Proposed Rules:
200 58374
888 58375

26 CFR

1 58520
53 58520
301 58520
Proposed Rules:
1 58143

28 CFR

Proposed Rules:
Ch. I 58368

29 CFR

92 58312
2606 58339
Proposed Rules:
29 58143
1960 58144

30 CFR

722 58780

723.....58780
843.....58780
845.....58780
924.....58520
Proposed Rules:
916.....58569
918.....58576
926.....58377
931.....58594

31 CFR

Proposed Rules:
10.....58594

32 CFR

888.....58117

34 CFR

Proposed Rules:
100.....58145

36 CFR

1228.....58339

40 CFR

52.....58340, 58526-58528
180.....58121
Proposed Rules:
52.....58146, 58598, 58599
55.....58381
162.....58600
180.....58497-58500, 58600
415.....58383
717.....58384

41 CFR

5A-1.....58341
Ch. 101.....58122

42 CFR

405.....58123

44 CFR

64.....58529-58531
65.....58341
67.....58342-58346
Proposed Rules:
67.....58148, 58149, 58601

45 CFR

134.....58362
233.....58125
1061.....58363, 58534

46 CFR

Proposed Rules:
536.....58385

47 CFR

73.....58539, 58540
Proposed Rules:
Ch. I.....58608
73.....58150, 58609-58629

49 CFR

601.....58540
1033.....58126-58128
1051.....58128
1104.....58128
1307.....58128
1310.....58129
Proposed Rules:
173.....58632
178.....58632
1111.....58632
1331.....58166

50 CFR

20.....58540
32.....58552-58554
33.....58554
Proposed Rules:
17.....58166, 58168, 58171
601.....58632

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator. Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

FEDERAL RESERVE SYSTEM

19216 3-25-80 / Reserves of member banks (Regulation D); foreign banks; reserve requirements and deposit interest rate limitations

PERSONNEL MANAGEMENT OFFICE

51755 8-5-80 / Training

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing September 3, 1980